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Order and the Atlantic World: A Study in the British War Against the Pirates, 1695-1725

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Order and the Atlantic World: A Study in the British War against the Pirates, 1695-1725

by

Shawn Anctil

Thesis submitted to
the Faculty of Graduate and Postgraduate Studies
in partial fulfillment of the requirements for the
M.A. degree in History.

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ABSTRACT**Order and the Atlantic World: A Study in the British War against the Pirates, 1695-1725**

Shawn Anctil,
University of Ottawa, 2007

Supervisor:
Professor Richard Connors

This thesis examines the legal and political environment that allowed piracy to expand during the period that many historians now refer to as the “Golden Age of Piracy” (1695-1725). Towards the end of the sixteenth century, metropolitan officials in London began to take a concerted interest in regulating trade and bringing the traditional system of reprisals under control. What they found, however, was a great deal of resistance to these new policies in the North American colonies. The level of uniformity of this resistance varied from port to port. London’s legislative initiatives were rooted in what had essentially become a lawless situation both on the American main, as well as the Caribbean. While the trend in the sub-field of pirate history has been to focus on the periods before and after the First War of Spanish Succession, this thesis examines the correspondences of colonial and metropolitan administrators precisely during this period. These reveal a dissonance in how piracy and privateering were discussed during the conflict that is critical to understanding the violent outbreaks of the Golden Age. As is shown, metropolitan efforts to rationalize trade within a mercantilist economic framework were often seen as hindrances to colonial affairs. Furthermore, the lack of adequate defenses for the colonies often encouraged Governors to seek out their colonies’ security through private means. Pirates and privateers were intimately tied to this rift between London’s ideological expectations and the colonies’ practical necessities. While romanticized to posterity, the widespread outbreak of piratical violence during the Golden Age was, in fact, endemic to a British Atlantic world that was in a state of often bloody and violent flux.

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The completion of this research project would not have been possible without the diligent attention accorded to it by Professor Richard Connors of the University of Ottawa. His knowledge, insightful feedback and tremendous capacity for work made much of what is contained within these pages possible. I would also like to thank the Social Sciences and Humanities Research Council of Canada for their financial contribution to my academic life in the second year of my Master's degree. It is a privilege to have been chosen for this bursary and I count myself very fortunate for having received it. Not to be overlooked, I am grateful to the University of Ottawa for their Admissions Bursary and Excellence Scholarship, as well as the various Teaching and Research Assistant positions offered during the first two years of my graduate degree. As for my final two semesters, I extend my gratitude to Professors Michel Bock and Yves Frenette of the Centre de Recherche en Civilisation Canadienne Française, at the University of Ottawa, for having taken me on as a researcher on their various projects.

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Introduction

British Piracy, Violence, and the Creation of an Augustan State

Two particularly interesting fields of analysis have emerged in the last fifteen years which have profound implications and require detailed analysis by scholars studying the vibrant sub-field of pirate history; state formation and Atlantic studies. The former, whose definitive study can be found in Janice Thomson's *Mercenaries, Pirates and Sovereigns* has analyzed the topic in perhaps the most useful scholarly form by considering the ways in which imperial states came to monopolize violence and develop control over the private citizen's right to violence or "self-help."¹ In analyzing the conflict between private and state sanctioned violence, Thomson casts the analysis of piracy within a wider debate of the formation of national states and empires through the effective, legislated control of the means of violence. Complementarily, Atlantic Studies, as illustrated by David Armitage, Michael Braddick and Bernard Bailyn, has encouraged us to think of Atlantic communities in terms of how they were tied to global networks of trade and cultural exchange.² Their principal arguments require some explanation since both approaches to the study of the Atlantic world and piracy, the state and the nature of violence are central to discussions in this thesis.

¹ Janet E. Thomson. *Mercenaries, Pirates and Sovereigns* (Princeton: Princeton University Press, 1994) pp.7-20. See also Geoffrey Parker. *The Military Revolution: Military Innovation and the Rise of the West, 1500-1800* (Cambridge: Cambridge University Press, 1988).

² Bernard Bailyn. *Atlantic History; Contexts and Contours* (New York: Cambridge University Press, 2005). David Armitage and M. J. Braddick, eds. *The British Atlantic World, 1500-1800* (New York: Palgrave Macmillan, 2002). David Armitage. *Greater Britain, 1516-1776: Essays in Atlantic History* (Alderhot: Ashgate, 2004).

Thomson argues that the portrayal of the State as “monopolizing coercion, is distinctively modern.”³ The notion of “sovereignty,” in this perspective, is an adaptive “institution,” in constant flux, composed of two dimensions.⁴ The first is external, and related to the international sphere of activity. This is considered by Thomson as the “constitutive dimension of sovereignty” in that it is recognition by other states that essentially defines a state’s existence. The second dimension of the state is the internal one, where the State possesses “specific authoritative claims.” Thomson sees this part of the institution as the “functional dimension of sovereignty” in that it is within this sphere that the state is recognized as having legitimacy, by external observers, to operate and effect its strategic objectives. Within this context, the control of violence is not a defining characteristic of sovereignty, but rather an external expectation of it by other actors.⁵ During the period examined here, 1695 – 1714, sovereignty was being redefined against its peoples, properties and colonial possessions by European states. This was by no means a deliberate, methodical process, but rather the result of a series of decisions taken by the dominant powers of the day; England, France and Spain. As major European actors redefined their legitimate areas of control and coercion, a consensus was forming that States were responsible not only for the defense of their territory, but also for non-state, private intense violence emanating from their territory.⁶

In the face of imperial competition between European powers, this was exceptionally difficult to achieve in a sphere of activity as wide and as prized as the

³ Thomson. *Mercenaries, Pirates and Sovereigns*. p.11.

⁴ Thomson approaches sovereignty from a post-deconstructionist perspective that sees institutions as one of the only measurable topics of study. In her analysis, sovereignty is seen as an institution. *Ibid.*. pp.13-14.

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Atlantic. As Bernard Bailyn points out, although familial and co-religionist ties came to dominate the “Atlantic system,” the reality is that these affiliations could not compensate for what was in reality a situation of “pervasive social disorder and disorientation.”⁷ Thus, the Atlantic world became a contested arena in which Britain and her European rivals fought with the use of state power and auxiliaries (privateers) for control of the Atlantic Ocean and its environs. A significant contributing factor to the subsequent disorder that gripped the Atlantic basin was the noticeable regional variance in conditions and circumstances that different colonies had to confront. As David Armitage points out, the study of these different regions, Cis-Atlantic history, remains one of the most important tasks for historians working in this emerging field.⁸ Regional variation is a driving element not only of Atlantic history, but remains crucial to understanding evolving notions of sovereignty and changing discourses on an individual’s right to recourse to violence in the British Atlantic world.

With these arguments in mind, the first section of this thesis examines the problems that hinder our understanding of the motivations of those sailors who went “rogue,” or “upon the account.” Between 1695 and 1725 piracy did, in fact, represent a menace that threatened the expansion of emerging global trade networks and the lives of those employed in securing them. It is critical then, to understand not what, but *who* this threat to imperial trade and colonial stability was. To be sure, a great deal of the historiography on piracy has focused on this question, and has precipitated an ideologically driven debate about the motivations of the sea robbers. Any precise

⁷ Bailyn. *Atlantic History; Contexts and Contours*. pp. 47-48 and 70, fn19.

⁸ David Armitage. “Three Concepts of Atlantic History,” in *The British Atlantic World, 1500-1800*, David Armitage and M. J. Braddick, eds. (New York: Palgrave Macmillan, 2002), pp.21-23.

argument is difficult to formulate, however, as pirates themselves rarely left behind any written sources by their own hand. Because of this evidential imbroglio, this thesis suggests that it is more useful to understand piracy, as contemporary Augustan Britons would have done, as a legal category that defined a group of sailors by their actions. On the question of motivation of these sailors, this dissertation considers whether they were ideologically, or financially motivated, in their decision to break the law and turn pirate.

Although most pirate historians continue to focus on the bloodiest conflicts and the most colorful and spectacular of characters, it is doubtful that this trend has improved our understanding of outbreaks of piratical violence. Might some of the reasons for the persistent presence of state sanctioned private violence during the seventeenth and eighteenth centuries lie in the calm or routine moments of what contemporary historians have called the “Golden Age of Atlantic Piracy”?⁹ Before turning to consider the massive outbreak of piratical violence, which descended upon the Atlantic between 1695 and 1725, it is appropriate to contextualize the Golden Age. Queen Anne’s War (1702-1713) remains relatively overlooked by pirate historians. The conflict has been portrayed as a period of general respite from the brazen actions of maritime bandits, as the war channeled the labor of experienced seamen into legitimate avenues of violence. The fact that the period lies between two of the pillars of the Golden Age (1695-1700 and 1713-1725),¹⁰ however, necessitates some form of analysis of how metropolitan and colonial

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¹⁰ The first era, 1695 to 1700, represents a period of eastern expansion by pirates, notably the actions of captains Avery and Kidd who seriously jeopardized English relations with

officials viewed the actions of sailors and privateers during the conflict. On what level was private violence actually discussed?

The English elites who administered the colonies at the onset of Queen Anne's War were not the same type of officials who oversaw the original impetus to colonize the West Indies. Social and economic changes to English society gave rise, by the end of the seventeenth century, to a new type of political elite – one who was actually interested in the colonies.¹¹ This rapidly became apparent in the type of legislation passed by Parliament to regulate trade, control private violence and smuggling. As such, the second section of this thesis analyzes these changes in England's political structures and the goals they tried to accomplish through innovative piracy statutes at the turn of the eighteenth century. This analysis leads directly to the most pressing question of this research project: how were these legislative and administrative innovations received in the colonies?

As will be shown, these legislative initiatives contributed in no small manner to the diffusion of the central state's powers and consequently provided a significant improvement to administrative efficiency. Colonists had, however, during the seventeenth century, developed their own customary ways of compensating for the absence of direct state presence in their regions. The third section of this thesis examines

India. The second era, 1713-1725, refers to the massive demobilization of naval forces following the First War of Spanish Succession that saw thousands of sailors suddenly out of work. The second period has received the most attention by scholars. Rediker. *Villains of All Nations*, pp.19-37.

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some of the obstacles in the colonies to the proper implementation of metropolitan policy towards private violence immediately after the passing of the 1700 piracy statute, and during the early years of the war.

Throughout Queen Anne's War, privateering proved an extremely important vehicle for effecting the strategic objectives of both central administrators in London and colonial Governors. As the war progressed and drew to a close, an evolving dialogue concerning privateering emerged in the correspondence of metropolitan and colonial administrators. While privateering, as an option, was not really questioned, the circumstances in which privateers could be legitimately used were narrowing. The final section of this thesis will examine the advantages that privateers provided to colonial Governors and the illegal actions in which they were involved that came to question their place in the administration of state policy.

The research presented within these pages is not meant to provide empirical data on the growth of piracy, nor the increasing affluence of British subjects on either side of the Atlantic. That task has been accomplished by many historians, and their works are duly referenced and discussed within more appropriate sections of this thesis where a more minute historiographical examination takes place. Rather, through a qualitative analysis of colonial correspondence, anti-piracy statutes and the works of other historians, this thesis seeks to cast light on the dissonance between metropolitan, Atlantic colonial policy and colonial realities. In sum, this thesis seeks to modestly contribute to discussion on the distances between the central imperial administration in London and those centers of trade and government in the colonies by examining the influence of piracy on state formation in time of war.

A century of administrative neglect engendered a factious and independent spirit in England's North American colonies that made the proper implementation of colonial policy very difficult to effect. Despite important legislative initiatives that diffused the powers of the central state and helped establish the Crown's presence in the individual colonies, illegal trade and piracy continued to be a problem for colonial subjects. These policies were not formulated as a deliberate attempt to establish sovereignty, but were rather a corrective to previously inefficient legislation. The outbreak of war, shortly after the initial statutes were passed, served to mask from historians the impotence the central state continued to experience when attempting to control individual sailors. Although the war provided some respite from the wanton violence of pirates, they did not disappear. For during war, pirates mutated – at the behest of the state – into privateers; rogues whom the European powers happily harnessed for reasons of state and the continuation of hostilities against their rivals. These maritime marauders continued to act behind a veil of legitimate violence that would be dramatically pulled back when peace broke out in the Atlantic and the Caribbean. Thus they ushered in the final years of the Golden Age.

Introduction

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Chapter 1

Pillage and the Proletariat; the Historiography of Piracy in the “Golden Age”

Piracy poses particular epistemological problems for scholars and students of the subject. The first thing a researcher may notice is the significant difference in the period under analysis from one work to another. This is, in part, a problem of definitions, definitions which early modern pirates themselves had a hand in creating. It is also, however, because of the historical landmarks used by scholars to delineate and create boundaries around the passing of time. The study of subjects that left such scattered, occasionally insignificant, traces on the historical record, forcibly creates a problem wherein the selection of one important event as a beginning or an end point is done to the exclusion of a plethora of others. Periodization, therefore, is a challenge for most historians, but is always a concern for the study of early modern piracy. Since the problem of periodization is tied to the definition of piratical acts, a proper definition of what is meant by “buccaneer”, “corsair”, “freebooter”, “pirate” and “privateer”, will help in drawing clearer boundaries around the actions of sea bandits and those of the British state.

Another problem common to the study of all historical actors who have left behind few first-hand accounts of their activities is the complexity of accessing the mental world of the subject. Pirates are known to posterity, with few exceptions, through the writings of external observers. Pursuant to that, however, is the fact that piratical activity, in its rawest form was illegal. As such, pirates are only coherent as a group insofar as they are all externally defined as criminals who practice their “trade” at sea. The impact of these factors on available sources is that those which have survived the passage of time, are frequently moral or legal opinions of the prosecutors. Inherently judgmental, there is

seldom any text from the period which offers unfettered insight into the pirates they discuss. The individual prejudices of contemporary observers have, in turn, contributed to what has become an often contradictory historiography. To believe these, pirates had no other intent than the perpetration of “great Inhumanity and Baseness.”¹ The story is, rather obviously, more complex.

Writings on the motivations of West-Indian pirates can be said to fall into one of three schools of thought, which, in some cases overlap, but for the most part offer completely different visions of the activities of sea-robbers. One of these visions date back to the period examined here (1700 – 1726); the vision of pirates as violent thugs. This perspective has demonstrated remarkable tenacity throughout the nineteenth and twentieth centuries, and even today can be found in some more or less articulate form whenever the topic of banditry at sea arises. Two other schools of thought on pirates, the Marxist and economic, are more recent in their appearance, but have so dominated the discussion that all scholarly works on the topic can be said to lean toward one or the other. But before turning to the details of that debate, it is useful to consider the concept of ‘pirate’ and to qualify those whom this thesis analyzes and contextualizes.

Derived from the Greek word *peira*, meaning “to attempt”, and the Latin *pirata*, piracy made its way into the English language to refer specifically to the act of robbery at sea without license. It is essentially a legal term, and was viewed as a felony in the English Common Law, alongside larceny, manslaughter, murder, robbery and rape. Such crimes

¹ Anonymous. “The Life of John Upton, a Pirate...” *The lives of the most remarkable criminals, who have been condemn'd and executed; for murder, highway, house-breakers, ... from the year 1720, to the present time*, v.3,(London: Printed and sold by John Osborn, 1735), p.108.

were seen whether “of a publick, or private Nature; hurtful to the People in general, or to some particular Persons.”² It is worth noting that case studies of piracy often demonstrate how all these felonies could be committed in one piratical raid.

In this lies their first element of coherence as a group. As a group of people in the eyes of the Law and those responsible to dispense it, pirates were a coherent part of a community in that they were all felons. This is of course, a very narrow legal definition, and modern historians have been inclined to seek and offer more nuanced explanations. What is, for example, the difference between a pirate, a privateer, a buccaneer, a corsair, and a freebooter? These terms were far from interchangeable. Pirates were not the same as privateers, buccaneers, corsairs or freebooters. Although their activities may have been similar, contemporaries were acutely aware of the differences between them.

Privateers were sanctioned by a state through “letters of marque and reprisal,” which authorized them to attack enemy shipping in exchange for a return of a portion of the prize to the state’s coffers. Such letters had their origins in the “letters of reprisal” of the Middle Ages. During that period, it was not uncommon for sovereigns to issue permissions to their subjects to reclaim from foreign subjects goods or monies that had been taken from them. The issuance of letters of reprisal was a method of allowing small scale conflicts during peace time, without the risk of declaring open war between kingdoms. In England, these letters became regulated by statute in the fifteenth century. After the sixteenth century, such licenses took the shape of “general” reprisals, allowing privateers to attack

² Giles Jacob. *The common law common-placed: containing, the substance and effect of all the common law cases ... collected as well from abridgments as reports* (London: E. and R. Nutt, and R. Gosling, for W. Mears, T. Corbett, and J. Hooke, 1726), pp.219-220.

enemy, often Spanish, shipping whether time of peace or war. As such, the meaning and usage of them had changed from a tool for allowing conflict while preventing war, to a regularly used grant for licensing assaults on enemy commerce all the while filling the state's coffers.³

Privateers operated on a system of “no purchase, no pay,” meaning that should they not capture a ship, they would go home empty handed.⁴ In theory, privateers were regulated by legal obligations to maintain a journal, and hand over all prizes to an Admiralty judge on their return. As well they enjoyed a theoretical protection from prosecution from charges of piracy.⁵ Of course, this protection meant little if they were caught and tried by their victims. There was an activity that historians such as James Lydon have deemed more “honest” than piracy itself.⁶ The advantages of such a system to the English, in terms of supplementing their Navy and their income, are not difficult to imagine. They made excellent use of these letters from the Elizabethan period onwards, offering to posterity some of the most famous and successful privateers of all time; John Hawkins, Francis Drake, and Henry Morgan. That said, their system of payment was prone to abuse, and it was not uncommon for those with privateer commissions to prey on any vessel that crossed their paths when ‘legitimate’ prizes could not be found.

³ David J. Starkey. “The Origins and Regulation of Eighteenth-Century British Privateering,” in *Bandits at Sea: A Pirates Reader*, ed. C.R. Pennell, (New York: New York University Press, 2001), p.70.

⁴ J.S. Bromley. “Outlaws at Sea, 1660-1720; Liberty, Equality and Fraternity among Caribbean Freebooters,” *Bandits at Sea: A Pirates Reader*, ed. C.R. Pennell, (New York: New York University Press, 2001), p.175.

⁵ David Cordingly. *Under the Black Flag: The Romance and Reality of Life Among the Pirates* (New York: Harcourt Brace & Company, 1995), pp.xvii-xviii.

⁶ James G. Lydon. *Pirates, Privateers, and Profits* (Upper Saddle River: The Gregg Press, Inc., 1970), p.26.

The term “buccaneer” refers to a specific group of privateers and pirates who operated in the Caribbean for most of the seventeenth-century. Predominantly French, they settled on the island of Hispaniola around 1630 and for the rest of the century harassed Spanish shipping with great zeal and efficiency. As the Spanish re-settled *en-masse* on the continent, buccaneers supplemented their diet by hunting the cattle left behind on the island. They would cook this meat over a wood-fire, a technique then known as *boucaner*; their namesake was derived from this practice. They extended their influence to the neighboring island of Tortuga, and eventually to Port Royal, Jamaica. Also known as the “Brethren of the Coast,” they included among their ranks successful French pirates such as Pierre Legrand and François L’Ollonais, as well as English sea-dogs like Henry Morgan who became renowned for the sacking of Panama City in 1671. Their last major offensive, as a more or less organized group, occurred alongside French forces in May of 1697 during the assault on Cartagena.

Corsairs, also known as Barbary pirates, operated in the Mediterranean. They were frequently the privateers of the Barbary powers, possessing their own legitimacy and charged with the destruction of Christian commerce. Less well known were the corsairs of Malta, whose mission was to destroy the shipping of the Knights of Saint John, a medieval organization charged with fighting Muslims.⁷ Books such as Linda Colley’s *Captives; Britain, Empire and the World 1600-1850*, as well as Frank Lambert’s *The Barbary Wars:*

⁷ Cordingly. *Under the Black Flag*, p.xviii.

American Independence in the Atlantic World provide valuable, if at times problematic starting point for studies of the Barbary corsairs.⁸

It must be understood that in many cases these corsairs were “privateers” in that they enjoyed the sanction of their states. The activity of piracy and ransom was, from the perspective of external observers, the central economic activity of these “petty tyrants”. Barbary states, although part of the “Muslim World” were not Islamic in a theocratic sense. They were “military republics” ruled by a *dey* (ruler) and the *aga* (high officer) of the janissaries (soldiers). Foreign diplomats viewed this political structure as filled with infighting, assassination and harsh punishment, concluding that “any private soldier who has the courage to murder [the aga], stands an equal chance of becoming his successor”.⁹

The links between the Barbary pirates and the Barbary states were made all the more apparent and official through the presence of the scrivener onboard, whose role was to record the taking of prizes in order for accurate records to be offered to those who had invested in outfitting the corsairs. Since the 16th century, wars between the declining Ottoman Empire and the other Mediterranean powers had resulted in a decline in Barbary trade in the region, leaving piracy and forceful negotiation over ransoms and tributes as an important means of economic survival.¹⁰

Freebooters received their namesake from the Anglicization of the Dutch *vribuiter*. The word originally referred to a group of Dutchmen, who believed that the goods of Brazil

⁸ Frank Lambert. *The Barbary Wars: American Independence in the Atlantic World* (New York: Hill and Wang, 2005). Linda Colley. *Captives: Britain, Empire and the World, 1600-1850* (London: Pimlico, 2003).

⁹ Lambert. *The Barbary Wars: American Independence in the Atlantic World*, p.38.

¹⁰ *Ibid.*

and Peru were open to all enterprises and entrepreneurs, and acted upon this belief longer than any other Northern European group.¹¹ According to J.S. Bromley, “freebooter” was “a ‘softer’ word than ‘pirates’” in that they were “not yet common robbers”.¹²

The list could be extended - for example, the French had their “*flibustier*,” later Anglicized as “filibuster.” The important point here is that through common usage, these terms have often transformed into synonymous forms, and it is easy for a writer, for lack of variety, to replace privateer with freebooter, or pirate with corsair. The danger in this habit is the loss of accuracy. Many of these terms refer to specific historical agents within specific historical contexts. Contemporaries used them, fully aware of the differences in terminology. In no case is this clearer than when referring to pirates and privateers. Despite the abuses of the latter system, and its use of the exact same methods of capture as pirates, many European contemporaries placed a great deal of importance on the symbolic legitimacy of the privateering enterprise.

Piracy, however, remained an act. As with privateers, buccaneers, and the rest of their ilk, those deemed pirates by the courts were, first and foremost, skilled deep-sea mariners. Stripped of legitimacy, a pirate was a sailor who in disregard for the laws of his, and in two recorded cases, her state, went “upon the account.”¹³ It is important to see them as sailors who broke the law, not for moral reasons, but to remind ourselves of the social

¹¹ Anne Pérotin-Dumon. “The Pirate and the Emperor.” *Bandits at Sea: A Pirates Reader*, ed. C.R. Pennell, (New York: New York University Press, 2001), p.33.

¹² Bromley. “Outlaws at Sea.” *Bandits at Sea: A Pirates Reader*, p.175.

¹³ This refers to the cases of Anne Bonny and Mary Reid who beyond being the only two recorded cases of women pirates during the Golden Age, also sailed on the same ship. See Daniel Defoe. *History of the Most Notorious Pyrates*, ed. Manuel Schonhorn, London: J.M. Dent and Sons, 1972, pp.148-165. See also Markus Rediker. *Villains of All Nations* (Boston: Beacon Press, 2004), pp.103-126, or Cordingly, *Under the Black Flag*, pp.56-78.

circles they ran in, as well as the conditions that encouraged their decision to commit acts of maritime banditry. They were specific actors within a wider maritime culture. It is useful to observe outbreaks of piracy not as concentrated outbursts of maritime violence perpetrated by a few spectacularly violent individuals, but also as waves of lawlessness amongst 'ordinary' sailors. In seeing them primarily as sailors, it is easier to understand the trappings of their identity and their motivations to go rogue.

As the noted historian Charles Tilly points out, most good histories provide "prospective" rather than "retrospective."¹⁴ They begin at a given moment, and move forward assuming no knowledge of future events. For example, the English did not know in 1702 that the war they had become embroiled in would end in 1713. The challenges they faced were met as they occurred; occasionally foreseen, but more often than not, adapted to. The challenge lies in deciding which event a study will move forward from, and then deciding when it is to end? Historians of piracy seldom agree upon the appropriate timeframe to be studied. This in turn has allowed great flexibility in making generalizations on the subject which are exceedingly difficult to challenge.

Ian K. Steele's landmark study of the Board of Trade and Plantations, for example, dates the "War against Piracy" as occurring between 1697 and 1701.¹⁵ Admittedly, Steele's work is primarily the history of an administrative body, and his chronology is intended to reflect the changes and fluctuations in the Board's membership, policies and degree of political influence. After 1707, the majority of the Board's original membership

¹⁴ Charles Tilly. "On the History of European State-Making" in *The Formation of National States in Western Europe*, ed. Charles Tilly, (Princeton: Princeton University Press, 1975), pp.14-16.

¹⁵ Ian K. Steele. *Politics of Colonial Policy* (London: Oxford University Press, 1968), p.42.

had been replaced, and those that remained were mostly political appointees with little interest in properly administrating the colonies.¹⁶ In this context, it is accurate to say that the Board's war against piracy ended when Queen Anne's War began in 1702. Nevertheless, it creates certain problems when in examining the Board's records, we find a concentration of renewed interest towards piracy in 1717.

On May 31st, 1717, a group of influential British merchants and military men approached the Commissioners of the Board of Trade and Plantations with a petition concerning the proliferation of piracy in the West Indies. They believed that if the growing number of pirates was to be culled, a course of action which included a show of force and acts of grace, was necessary. They proposed, that alongside the permanent stationing of three men-of-war in the Caribbean, the Commissioners should offer a general pardon, which would apply to all pirates who approached the proper authorities, seeking reprieve for their crimes, within a given period of time. Furthermore, to secure Atlantic trade routes, these same men recommended the settlement of Providence, in the Bahamas, in order to deny the pirates a previously safe harbour and strategic staging point for assaults on merchant ships.¹⁷

The existence of such a document does not make sense with a war that was supposedly fought sixteen years beforehand. It clearly suggests a renewed flourish of piracy in the Carribean. What are we to think of Steele's rendition then? His chronology does, in fact, follow an administrative narrative, but only insofar as the institution studied

¹⁶ *Ibid.* p.109.

¹⁷ Great Britain. Public Record Office. *Journal of the Commissioners for Trade and Plantations*, v. 3, H.C. Maxwell Lyte ed. (Nendeln/Liechtenstein: Kraus Reprint, 1969), p.237.

related to other political bodies. The 1697 to 1701 chronology reflects the fact that for three years following the Peace of Ryswick, the Board “was in its most favourable position” towards Westminster and Whitehall.¹⁸ It does not accurately reflect the sudden outburst of robbery at sea which followed the Treaty of Utrecht in 1713.

More problematic is James Lydon’s assertion that “Piracy had been suppressed” by 1701.¹⁹ Again, the subject determines the timeline. Lydon’s focus on the colony of New York provides an excellent micro-study of the activities of sea robbers. After 1701 and up to at least 1720, Lydon maintains that legitimate merchants by and far replaced pirates as privateers in most violent sea ventures.²⁰ The period, says Lydon, should be understood as two “eras”. The first, the “Age of Piracy” ended around 1701 and the second “Age of Privateering” continued well into and past the American Revolutionary War of the 1770’s and 1780’s.²¹ While this may be true of New York, far too much evidence exists to prove otherwise for the rest of the British colonies. In examining the wider phenomenon of piracy, Lydon’s book can serve only as a case study of a specific colony and region.

In contrast with the specific, there is also a trend towards the incredibly vast and general survey of piracy. Philip Gosse’s rendition of piracy from antiquity to the 1920s is an extreme example of this tendency.²² Similarly ambitious is John L. Anderson’s “Piracy and World History: An Economic Perspective on Maritime Predation,” which illustrates piracy’s role in the economies of the Caribbean, the Mediterranean and the Eastern seas. Notwithstanding this observation, Anderson’s article is manageable for it focuses on legal

¹⁸ Steele. *Politics of Colonial Policy*, p.59.

¹⁹ Lydon. *Pirates, Privateers, and Profits*, p.64.

²⁰ *Ibid.* p. 73-81.

²¹ *Ibid.* p. 25.

²² Philip Gosse. *The History of Piracy* (New York: Tudor Publishing Company, 1946).

and economic concepts, and is reinforced by the author's astute ability to maintain his discussion on a theoretical – rather than specific – level.²³

For the most part, historians who seek to provide a broad synthesis of piratical activity in the Atlantic world have limited the field of their study to between 1500 and 1850. Anne Pérotin-Dumon's article "The Pirate and the Emperor: Power and the Law on the Seas, 1450-1850" is a case in point. The article provides great insight into the ideological currents underlying the colonial enterprise of Western European states, and by and large does not suffer from the vastness and complexity of its breadth of study. Although Pérotin-Dumon's article surveys the period before 1500, it is brief; mentioning the existence of Breton, Norman, Welch and Cornish pirates along French and English ports, as well as the significance of Saracen, Genoese, Catalan and Pisan pirates in the Mediterranean in that area's political economy.²⁴ The real thrust of Perotin-Dumon's article lies in the seventeenth and eighteenth centuries.

By contrast, in the notion of a "Golden Age of Atlantic Piracy," some historians have set specific landmarks to the outbreak of maritime lawlessness. For example, Markus Rediker dates this Golden Age very precisely in three stages between 1713 and 1726. The first stage of this "Golden Age" began after the Treaty of Utrecht of 1713. Rediker notes how employment in the Royal Navy dropped from 49,860 men in 1712 to 13,475 in 1714.²⁵ This massive shift in the labor market provided the necessary thrust to create a wide-ranging wave of illegality. The second stage, lasting from 1716 to 1722, is delineated by

²³ John L. Anderson. "Piracy and World History: An Economic Perspective on Maritime Predation," *Bandits at Sea: A Pirates Reader*, p.82.

²⁴ Pérotin-Dumon. "The Pirate and the Emperor," *Bandits at Sea: A Pirates Reader*, p.36.

²⁵ Rediker. *Villains of All Nations*, p.23.

virtue of the fact that it is during this period when English shipping came under concentrated assault, and some of the most enduring names in the history of piracy, Blackbeard and Bartholomew Roberts, made their way onto the scene. It is during this period that 70% of all prizes were taken. It was also during this period that Woodes Rogers was granted Royal authority over the Island of Providence in the Bahamas in 1718, thereby removing a major pirate stronghold.²⁶ The third period would last from 1722 to 1726. It was a final era ushered in by the naval defeat of Bartholomew Roberts and his fleet in 1722, and represents an era of astonishing violence, as according to Rediker; “Those pirates who remained at sea...became more desperate and more violent and killed more of their captives, as they knew that they faced almost certain death for their actions.”²⁷

Although the notion of a “Golden Age” is agreed upon by scholars, the temporal delineation remains contested. Robert Ritchie, in his brilliant account of the trial of Captain Kidd, prefers to categorize the activities of “deep-sea marauders” during the “so-called Golden Age” as a series of “pulses” resulting from the activities of this entirely new breed of piracy. The first “pulse” occurred about 1680, as pirates who had plied their trade in the Carribean moved outwards to raid in the Pacific either through the Isthmus of Panama, or by sailing around Cape Horn. The second “pulse” occurred about the same time, when pirates sailed past the Cape of Good Hope into the Indian Ocean, hoping to bring to port the riches of the Indian Mughal’s treasure fleets. These two great movements of “anarchistic marauders” would eventually converge to create a major problem for late

²⁶ *Ibid.* p.36-37.

²⁷ *Ibid.* p.37.

seventeenth century Indian shipping.²⁸ Ritchie's account states that after the execution of Captain Kidd in 1701, a period of particularly bloody conflict between pirates and the Royal Navy began. This period, with an intermission, graciously provided by the First War of Spanish Succession from 1701-1712, saw some of the most brutal events perpetrated by pirates. Moreover, he states that part of the chronology is determined by a dramatic shift in the labor market following the Treaty of Utrecht.²⁹ Of particular importance, Ritchie also states that between 1704 and 1759, only a handful of trials for piracy made their way to the High Court of Admiralty. By and large, this institution spent far more time issuing commissions for the trial of pirates in the colonies, as "The action spilled all over the empire".³⁰

Similarly, Arne Bialuchewski, in his article "Between Newfoundland and the Malacca Strait: A Survey of the Golden Age of Piracy, 1695-1725" places the emphasis of piracy on the first quarter of the eighteenth century. His justification seems sound, He begins with the capture of two Indian vessels with an estimated value of £180,000, in September, 1695, by the legendary Henry Every (Avery).³¹ He ends his account in 1725, somewhat arbitrarily, following a description of what is among one of the most brutal periods of conflict on the high seas that the world has ever known.³²

The variation in timelines is minute, but it is still present for some important reasons. Historians disagree over what period to study, in part because of problems of

²⁸ Robert C. Ritchie. *Captain Kidd and the War Against the Pirates* (Cambridge: Harvard University Press, 1986), pp.19-26.

²⁹ *Ibid.* p.232-234.

³⁰ *Ibid.* p.235.

³¹ Arne Bialuchewski. "Between Newfoundland and the Malacca Strait: A Survey of the Golden Age of Piracy, 1695-1725," *Mariner's Mirror*, v.90(2), (May 2004), p.169.

³² *Ibid.* p.180.

definition, but also because of a crucial and historiographically fundamental disagreement over who was a pirate. As George Francis Dow put it in 1923; “The pirate, the privateer and the armed merchantman often blended the one into the other.”³³ This fact has made it excessively difficult to define a proper timeline of study.

One tendency that runs throughout the historiography is the absence of any real analysis of discussions of piracy and privateering during Queen Anne’s War. The primary reason is fairly straightforward; the war effort channeled maritime labor within what would have been considered legitimate avenues for violence. In absence of any significant amount of pirate trials, or blatantly piratical acts, historians have been able to describe the War of Spanish Succession as a period of respite from commerce raiders. This is not entirely the case. Many of the men who became pirates after the peace honed their maritime skills during the conflict as privateers or Royal Navy sailors. Furthermore, when peace broke out across the Atlantic administrators in London and the colonies had developed a new perspective on the powers of the state in relation to its subjects. Therefore, it is important to inquire into how the discussion surrounding privateers evolved during this period. How did colonial administrators and metropolitan officials discuss privateers specifically and the privateering enterprise as a whole during the war? Was this perspective the same across the Atlantic and in the port towns of the British colonies and as such respective of a ruling ideology or principle? If not, what factors contributed to these differing perspectives?

³³ George Francis Dow. *The Pirates of the New England Coast, 1630-1730* (New York: Argosy-Antiquarian Ltd., 1968), p.19.

Between 1700 and 1726, the term “pirate” refers to a significant number of skilled deep-sea sailors whose various raids served to cripple international trade. Naturally, their actions inspired a plethora of moralistic observations from their contemporaries. For the scholar in search of some objective, contextual basis for analysis, such commentaries ensure that the historian is forced to chart a veritable sea of opinion and conjecture. One of the primary culprits of historical disinformation has been the romantic characterization of pirates by those appealing to a popular audience. Pirates have been lionized and demonized in a variety of texts including classics such *Robinson Crusoe*, *Treasure Island*, and *The Pirates of Penzance*.³⁴ For more recent audiences, sea bandits have been presented on the silver screen in *Pirates of the Caribbean*, and even a *Muppets’ Treasure Island*. Further still, popular video game designer Sid Meiers recently released a computer game called *Pirates!* where the player is able to play either a pirate or a privateer charged with building a fleet of rogue vessels, finding buried treasure, and seducing the daughters of Caribbean governors. In hindsight, it seems safe to assume that those who have made their living communicating the stories of pirates to wider audiences have made more money than the deep-sea marauders themselves ever did.

Explaining “why” we have such a fascination with sea robbers is beyond the scope of this thesis. It would require a detailed sociological study reaching beyond historical analysis. Although intriguing as a social phenomenon, it poses real difficulties for researchers whose original interest in the topic stems from early encounters with such works. Fortunately, there exist for the careful reader, “antidotes” to romantic exaggeration.

³⁴ Robert Louis Stevenson. *Treasure Island* (New York: C. Scribner, 1917), Daniel Defoe. *Robinson Crusoe* (London: T. Woodward, 1736). Sir Arthur Sullivan. *Pirates of Penzance, Libretto*. (Halifax: S. Sichel, 1886).

One of the more balanced and scholarly texts is David Cordingly's *Under the Black Flag: The Romance and Reality of Life Among the Pirates*. This book deftly deconstructs the most popular images and associations we commonly attribute to pirates; wooden legs, parrots, hooked hands, eye patches and buried treasure. As Cordingly points out, such features were in fact normal among the pirates. Parrots, for example, were popular among deep-sea sailors in general, as they were exotic animals which were relatively easy to transport aboard a ship, could be taught to speak, made excellent gifts and for the more commercially minded, could fetch a nice price on the London bird market.³⁵ Similarly, wooden legs and hooked hands were not uncommon either, as the life of a deep-sea sailor presented the poor "tar" with plenty of situations in which there was the serious risk of loss of limb. In order to continue working, practical and functional "replacements" often had to be found.³⁶ Through texts such as Cordingly's, pirates begin looking far more like heavily armed thugs, than they do like Errol Flynn. What becomes obvious in Cordingly's analysis is that the objects that we often associate with pirates proper were, with the exception of an inordinate amount of personal weaponry, common to all who toiled on the deep-sea sailing vessels of the seventeenth and eighteenth centuries.

On the whole, academic interpretations of piratical activity lean towards one of three descriptions of their motivations. Simply put, either they place little care in understanding what motivated robbery at sea, and label pirates as thugs, either they see in pirates a set of ideas and attributes which leads the writer to conclude that pirates were 'primitive' rebels acting against an emerging capitalist order, or finally, they see behind the eyes of their subject the glitter of pieces of eight. Each of these hypotheses needs some

³⁵ Cordingly. *Under the Black Flag*, p.9.

³⁶ *Ibid.* p.8.

exploration as they are readily apparent in both the case studies and recent historiographical debates that substantiate this thesis.

The interpretation of pirates as thugs dates back to contemporary sources. One such type of source is a series of popularly reproduced tracts recording the dying words of pirates who were sentenced to death. The source, supposedly written by the attending clergyman, resounds with a moral undertone which seeks to convey to readers the wages of sin. In one such tract, a pirate who is described as “working out his Soul’s Salvation” before his execution, stated the ill influence pirates had on those around them:

He confess’d that he had been guilty of several acts of Piracy, while in that Service, but (said he) all who are in Company of the Pirates must comply with all their Commands, whether it be to Fight, Plunder or Rob all Ships and Men they meet with; which if they do not, the other Pirates, who are the most licentious, disorderly, and cruel Fellows under Heaven, will be sure to Shoot one through the Head, or Murder him one way or other.³⁷

Perhaps no story more clearly emphasizes the potential for brutality amongst pirates in this period than that of Edward Low, whom “Nature seem’d to have designed him for a Pyrate from his childhood”.³⁸ Stories of Low’s cruelty abound in Johnson’s *History of the Pyrates*. One of the most famous stories dates back to August of 1722, when Low came upon several French and English ships lying in wait close to St. Michael’s. Low threatened all of them with death should they resist, a threat these sea captains took seriously, and “yielded themselves up a Prey to the Villains, without firing a Gun.” Having but scant supplies of water, Low sent word to the Governor of St. Michael’s that should he not receive adequate supplies he would burn all the ships down. The Governor decided not to

³⁷ Anonymous. *A True and Genuine Account of the Last Confession and Dying Words of John Gow, alias Smith...* (London: Printed for T. Warner, 1725), p.8.

³⁸ Defoe. *History of the Most Notorious Pyrates*, p.318.

call Low's bluff and acquiesced to the pirate's demands. Upon receipt of the provisions, Low released six of the ships, taking one, the *Rose*, as his own, abandoning his recently captured French vessel. Thereafter:

the Pyrates took several of the Guns out of the *French* Ship, and mounted them aboard the *Rose*, which proved very fit for their Turn, and condemned the former to the Flames. They took all the Crew out of her, but the Cook, who, they said, being a greazy Fellow, would fry well in the Fire; so the poor Man was bound to the Main-Mast, and burnt in the Shipp, to the no small Diversion of *Low* and his *Mirmidons*.³⁹

But Low's remains an extreme case of violence. For all the tales of callous sea-robbers, there are just as many, if not more, examples of pirates who did not demonstrate such a penchant for sadism. The story of John Gow provides an excellent counterpoint to Low. Gow, whose piratical career began like so many of his contemporaries in a bloody mutiny,⁴⁰ demonstrated a much more moderate application of his trade. The same could not be said of Gow's lieutenant, a man named Williams, who was "distinguished by the ferocity of his nature" and took great pleasure in "exerting his cruelty by beating the unhappy men".⁴¹

The difference in temperament between the Captain and his Lieutenant culminated in Williams accusing Gow of cowardice for refusing to attack a heavily armed French ship. Infuriated, Williams drew his pistol on Gow, seeking to depose of him in the same manner that saw Gow rise to control of his ship. Seeing this, two members of the crew shot Williams in the arm and the stomach, and after Williams continued to fight back, tied him

³⁹ *Ibid.* p.323.

⁴⁰ Anonymous. *The malefactor's register; or, the Newgate and Tyburn calendar*, .v.2 (London : printed, by authority, for Alexander Hogg, 1779), p.183.

⁴¹ *Ibid.* p.186.

up and put him in with some other prisoners they had incarcerated. Rather than violently dispose of this mutinous rogue, Gow awaited his next prize, a merchantman out of Bristol, and placed Williams aboard it along with their other prisoners.⁴² Throughout Gow's tale, he is described as a literate, rational man, prone to discussing matters with his crew and demonstrating, at the very least, humanity towards his victims. He was open to negotiations up until the point of his capture. What violence he perpetrated went hand in hand with the nature of his trade.

Historical works which describe pirates as thugs are often the result of the same methodological traps that produce romantic ideals of them; they are the result of a generally uncritical reading of the sources and a desire to idealize them to posterity. Works such as Philip Gosse's largely polemical *History of Piracy* is an excellent example of such writing. The text is rife with statements to the effect that "it would be absurd to pretend...that their piratical extinction has not been to the benefit of all mankind."⁴³ Surely, many pirates were motivated by more than the simple desire to do harm. To this effect, Marxist analysis provides an interesting, and far more nuanced, account of sea-robbery.

The Marxist line of analysis can be traced at least as far back as E.J. Hobsbawm's *Primitive Rebels*, published in 1959, and has manifested itself more recently in the works of Markus Rediker and Peter Linebaugh. Hobsbawm's *Primitive Rebels* sought to inquire into the nature of what he called "'archaic' forms of social agitation"⁴⁴ Focusing on South Western Europe, the geographical and chronological scope of his essay was beyond and far

⁴² *Ibid.* pp.189-190.

⁴³ Gosse. *The History of Piracy*, p.8.

⁴⁴ E.J. Hobsbawm. *Primitive Rebels: Studies in Archaic Forms of Social Movement in the 19th and 20th Centuries* (New York: W.W. Norton & Company, 1959), p.1.

removed from the most significant outbreaks of piratical violence during the Golden Age. Nevertheless, the “ideal” archetypes of “social banditry,” and the influence of local, group complicity,⁴⁵ which he outlined have been adopted by later historians as a basic explanation of buccaneering enterprises. These ideas are, in no small way, pillars upon which a complex argument has taken shape.

Bandits depended upon their communities either for protection from external menaces to their livelihood – or as a base for supplies and recruits. As such, the opinions which the local population held of the bandit bore tremendous weight on the way the latter behaved. If they saw him as a menace, they would be reluctant to supply him and were more likely to divulge pertinent information to authorities. If, however, the opinion of the bandit shone a more positive light upon this character, if they saw him as a “hero”, it was in the bandit’s interest to behave the part. This has, according to Hobsbawm, often been the case – bandits, regardless of the origins of their way of life, have often played the part, largely because of local pressures on their behavior.⁴⁶

This type of bandit has aptly been categorized by Hobsbawm as the “Robin Hood” archetype. In this pattern of behavior, the *bandit* became a champion of a society’s poor, against the rich or powerful of the same society. In stark contrast to this archetype, however, Hobsbawm also illustrated an entirely different “ideal” type; “the blood vengeance outlaw”. This particular breed of brigand fought “with and for his kin (including its rich) against another kin (including its poor).”⁴⁷ The former “archetype” was “a peasant rebellion against landlords, usurers, and other representatives of what Thomas

⁴⁵ *Ibid.* pp. 13-14.

⁴⁶ *Ibid.* p.16.

⁴⁷ *Ibid.* p.3-4.

More called ‘the conspiracy of the rich’.” The latter tended to lose sight of its goals, resulting in “unusually murderous feuds”, which had “an element of class struggle.”⁴⁸ Considering this fairly broad definition, one must ask; to which group, if any, did pirates belong?

One example that stands out in Johnson’s work is the story of Captain Skinner at the hands of Captain England’s crew. As the story goes, Skinner was the captain of a merchant vessel called the *Bristol*, stationed in Sierra Leone. Some of the crew on this vessel had been reprimanded by transportation to the West Indies aboard a man of war, without wages, for fighting; a common punishment of the era and a punitive means of ensuring ship solidarity.⁴⁹ The men deserted and “were taken by a Pyrate...and sailed upon the same Account along with Captain England”. The pirate captain had then sailed to West Africa, near the island of Providence, to prey upon merchant shipping in the area. Through circumstance, perhaps, England raided a vessel that Skinner commanded, and upon capturing it ordered him on board, Skinner complied. The first person Skinner saw upon boarding the pirate vessel was his old boatswain, who reportedly “star’d him in the Face like his evil Genius” and said to him; “Ah, Captain Skinner! Is it you? The only Man I wished to see; I am much in your Debt, and now I shall pay you all in your own Coin.” The former members of Skinner’s crew along with the boatswain,

laid hold of the Captain, and made him fast to the Windless [a winch used to raise anchors], and there pelted him with Glass Bottles, which cut him in a sad Manner; after which they whipp’d him about the Deck, till they were weary, being deaf

⁴⁸ *Ibid.* p.4.

⁴⁹ Markus Rediker uses this as an argument of how captains exploited sailors to increase the profits of a voyage. See Rediker. *Between the Devil and the Deep Blue Sea* (New York: Cambridge University Press, 1987), p.222.

to all his Prayers and Entreaties, and at last, because he had been a good Master to his Men, they said, he should have an easy Death, and so shot him thr'o the Head. They took some few Things out of the Snow, but gave the Vessel and all her Cargo to Howel Davis the Mate...⁵⁰

The story has elements of both class warfare and blood vengeance. On the one hand, the proletarian crew were taking revenge on a greedy capitalist master. On the other, this was the lengthy torture of a man who “had been a good Master to his Men” with the obvious motive of avenging a personal slight.

In *The Many-Headed Hydra*, Markus Rediker and Peter Linebaugh present pirates as temporary champions in the history of “expropriation, the struggle for alternative ways of life, patterns of cooperation and resistance, and the imposition of class discipline” which characterized the overseas expansion of Britain.⁵¹ It is a line of thinking about piracy which has inspired subsequent historians, such as Emma Christopher, to seek out the “Hydra” at work elsewhere, such as along the coast of Africa.⁵² In this argument, “pirates were class conscious and justice seeking”.⁵³ For Rediker and Linebaugh, piracy was the most threatening manifestation of labour organising itself against capitalist powers, a form of resistance they termed “hydrarchy.” This could only manifest in the final stage of class resistance, when merchant empires had ceased to take an interest in the pirates’ legitimized roles as privateers after the First War of Spanish Succession and its subsequent peace with

⁵⁰Defoe, *The History of the Most Notorious Pyrates*, p.115.

⁵¹Peter Linebaugh and Markus Rediker. *The Many-Headed Hydra; Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon Press, 2000), p.15.

⁵² Emma Christopher. “Another Head of the Hydra? Slave trade sailors and militancy on the African coast” in *Atlantic Studies*, v.1 (2), p.146.

⁵³*Ibid.* p.163.

the Treaty of Utrecht in 1713.⁵⁴ As the argument goes, encountering the inherent dangers of a life at sea, at the turn of the eighteenth century, sailors had “an alternative social order within living memory” as privateers, and for some as buccaneers⁵⁵ Thus, deep-sea sailors seized an opportunity, fought back against emergent capitalism and established an ideal, if only temporary way of life for themselves and their compatriots. That ideologically driven enthusiasm, however, did not appear to be far reaching.

In August of 1720, newly elected pirate captain John Rackam spent considerable time trying to increase the size of his crew along the northern and western coasts of Jamaica, feeding himself by preying on fishing boats to keep up supplies well into September of that year, stealing their stores, nets and tackle. Finding few men to join them they went to the French part of Hispaniola, robbing cattle and convincing two French men, “whether by Consent or Compulsion” to join their crew. Returning again to Jamaica, they took two sloops and a schooner. On the 19th of October they spotted a sloop around Dry Harbour Bay and fired a gun to signal their intentions. The men of the other crew ran onshore until they found their attackers to be pirates, at which time “they hailed the Sloop, and let them know they were willing to come aboard them.”⁵⁶ This revelation seems to suggest that some were willing to join, even if it could take a while to muster the forces, leaving pirates forced to execute daring raids on fishing boats so that they might ends meet.

This fortunate turn was not, however, always the case. The recipient of Skinner’s boat, Howell Davis, had a spot of trouble beginning his pirate career. After the murder of Skinner, England appointed Davis as captain of the Bristol. England gave Davis orders to

⁵⁴*Ibid.* p.156.

⁵⁵*Ibid.* p.159.

⁵⁶Defoe. *The History of the Most Notorious Pyrates*, p. 149-150.

proceed to a “certain Latitude, and at the Peril of his Life follow the Orders therein set down.” Davis readily agreed, probably relishing his new role as captain. The letter “contained no less than a generous Deed of Gift of the Ship and Cargo” off the coast of Brazil to be divided equally among his crew. When Davis proposed this ready plunder to his new men, however, “to his great Surprise, [he] found the Majority of them altogether averse to it, wherefore in a Rage, he bid them to be damn’d, and go where they would.” They did. The crew steered to Barbados, where some of the cargo was destined. They related to the merchants the death of captain Skinner and Davis’ proposal to them. Davis was thrown in jail for three months. He was later discharged, without trial, for he had committed no crime *per se*, and made for Providence in the Bahamas, where he knew a pirate rendez-vous existed. To his great disappointment, he found most pirates had surrendered to Captain Woodes Rogers, the pirate hunter and former privateer, taking advantage of an official Act of Grace, pardoning them for their crimes.⁵⁷ The story of Captain Davis, who would subsequently get his own crew, shows that at least some sailors had no interest in going “upon the account”.⁵⁸

It is misleading to assume that piracy represented a mass class movement possessing wide reaching political aims. To be fair, this is not what Rediker and Linebaugh are really arguing in their collaborative work. Their argument is far more specific and refined than that. Rather, by invoking the cry of “a Pyrate’s Life to be the only Life for a Man of any Spirit”⁵⁹, and comparing them to “Robbin Hoods Men”[sic] they present the argument that pirates were class conscious resisters, the ruthless champions of a proto-

⁵⁷*Ibid.* p.166-167.

⁵⁸Rediker. *Villains of All Nations*, p.19.

⁵⁹*Ibid.* p.11.

proletariat, whose membership included only the most daring rebels, dedicated to the emancipation of all sailors with courage enough to fight from their floating factories.⁶⁰

Linebaugh, in an individual work, spoke of sailors a “deep-sea proletariat” who stood in opposition to the forces of order and authority in the manifestation of riots at the gallows of Tyburn in London, in order to assure their condemned fellows proper burials.⁶¹ There was certainly a level of unorganized guild-like solidarity amongst sailors, and Rediker has done excellent work in proving the interconnectedness of pirate crews,⁶² but to extend the argument to say that pirates championed the common sailor is to ignore certain harsh realities.

First, to deal with occasional shortages in their crew, pirates resorted to their own form of impressment, a deceptive type of recruitment practised by the Royal Navy and reviled by all sailors. One episode of the recruitment of a skilled cooper illuminates how necessity brought about the worst in these sea bandits:

One of the pirates struck Mower many blows on his head with the helve of an axe, whereby his head was much bruised and bloodied, after which the same pirate forced him said Mower to lay his head down on the coamings of the hatch, and lifting the axe over his head swore that if he did not sign their Articles immediately, he would chop his head off, the said Mower begging hard for his life. After this the said pirate carried said Mower into the Round House where they continued a short time, and said Mower coming

⁶⁰Linebaugh *et al.* *The Many-Headed Hydra*, p.164.

⁶¹ The author argues that opposition to the practices of surgeons of gathering the bodies of the hanged in order to fuel research in anatomy was a cause of great grievance among sailors because of the fact that one-quarter of those hanged at Tyburn were in fact mariners. Furthermore, hospitals were often used as “crimping houses” or recruitment centres to man ships. See Peter Linebaugh “The Tyburn Riot Against the Surgeons” in *Albion’s Fatal Tree*, Douglas Hay, Peter Linebaugh, John G. Rule, E.P. Thomson, Cal Winslow contributors, (New York: Pantheon Books, 1975), p.85-88.

⁶²Rediker *Villains of All Nations*, p.80.

out told the declarant and other prisoners that he was ruined and undone, for they forced him to sign the Articles.

There is no record of Mower's fate.⁶³

Second, pirates kept, captured and sold slaves. When pirates overtook the Princes Galley on September 13th, 1723, and tortured the crew to discover the location of the cargo, they took as part of their prize eleven black slaves at £500 a head.⁶⁴ Many accounts exist of pirates raiding the Gold, Ivory and Slave Coasts of Africa. There are also very concrete proofs, such as the one of the New York merchant commissioning a pirate for two-hundred black slaves, only to be disappointed when the outlaw could only provide him with thirty-four. Pirates, in fact almost succeeded in establishing a slave trade route between New York and the Caribbean that could have rivalled that of the Royal Africa Company.⁶⁵

Perhaps, most damning of the pirate's practices and the greatest refutation of any notion of them as working-class champions is the fact that they most often turned their violence against themselves, the labouring poor of the Atlantic maritime world. As the sadistic incident between Edward Low, his crew and a poor cook, who was often a wounded sailor,⁶⁶ demonstrates completely, piratical violence had all sorts of victims. They cannot be considered "Robin Hoods" of the high seas. Rather, if they are to fit in this long line of thinking about rebellion, it is as the "blood vengeance outlaw", seeking retribution from all who oppose them, regardless of class. They were a fraternity out of necessity, a navy without a nation.

To say that pirates were motivated primarily by the prospect of financial gain seems almost too simple. The school of thought which has analyzed the actions of sea-bandits in

⁶³Cordingly. *Under the Black Flag*, p.123.

⁶⁴ *Ibid.* p.104-105.

⁶⁵ Pérotin-Dumon "The Pirate and the Emperor" in *The Political Economy of Merchant Empires*, James D. Tracy ed., (New York: Cambridge University Press), p.216.

⁶⁶Rediker *Between the Devil and the Deep Blue Sea*, p.85.

this light, however, has produced some of the most solid arguments in the sub-field of pirate history. One advantage of such an argument lies in the fact that while it asserts a monetary motivation, it does not necessarily exclude the social hardships that drove sailors to go rogue as a contributing factor. In this sense, these analyses are total economic arguments – factoring in the forces of both the commodities and labour markets.

Sailors in the merchant service and the Royal Navy operated under brutal conditions, in dangerous confines, and for poor wages. It was the type of environment which could test the moral resolve of any person. Dr Samuel Johnson's observation rings true; "no man will be a sailor who has contrivance enough to get himself into a jail; for being in a ship is being in jail with the chance of being drowned...A man in jail has more room, better food, and commonly better company."⁶⁷

Robert Ritchie's *Captain Kidd and the War Against the Pirates* relates the ways in which the great pirate movements of the seventeenth and eighteenth centuries followed the greatest available plunders.⁶⁸ Furthermore, in the case of Captain Kidd, he demonstrates how a privateer, sanctioned by the English and originally provided with legal protection, could turn rogue when too much time passed without a 'legitimate' prize.⁶⁹ Nevertheless, Ritchie does acknowledge the difficult position with which "ordinary seamen" in the merchant service were confronted. Having no stake in the cargo of their vessels, sailors regularly surrendered when pirates attacked. After 1682, however, Parliament had passed legislation forcing sailors to defend their ship. As Ritchie points out, this placed most seamen in an unfair position where the defence of riches they would never see was placed squarely on their backs.⁷⁰

⁶⁷ James Boswell. *The Life of Samuel Johnson* (London, 1791), p.86, quoted in Rediker. *Between the Devil and the Deep Blue Sea*, p.258.

⁶⁸ Ritchie. *Captain Kidd and the War Against the Pirates*, p.19-26.

⁶⁹ *Ibid.* pp.102-111.

⁷⁰ *Ibid.* pp.146-147.

J.S. Bromley's analysis of the pay system of the buccaneer's, although beyond the temporal scope of this thesis, provides valuable insight into the "no purchase, no pay" system, and how it compared far more favourably to the conditions in the French Navy.⁷¹ On the other hand, he does not fail to mention that "The resentment of pirates, generally recruited from merchantmen, were most specifically directed at the despotism of shipmasters."⁷² These shipmasters represented to them their previous miserable condition.

Anne Pérotin-Dumon's analysis of power relationships between the pirate and central European authorities reveals the considerable irony of the lust for Spanish gold at the turn of the eighteenth-century. The desire for better wages for their efforts often drove sailors to seek their wages in specie and through crime if necessary. However, significant changes to Europe's economic system were underway. During the seventeenth and eighteenth centuries, the English state's relationship to commerce was changing. Merchants increasingly shared the fiscal and economic priorities of revenue-seeking politicians, and trade goods came to replace bullion as the main currency of inter-oceanic and domestic commerce. Trade goods were replacing specie as the main objects of desire in an increasingly commercial society. Merchants in the colonies and at home came to gravitate towards the state's interest, just as the state had begun to gravitate towards theirs. The era of Mercantilism had begun, and pirates found it increasingly difficult to come by hospitable harbors to sell the trade goods they robbed, as large trading houses came to deny access to the individual entrepreneur.⁷³

It is precisely this entrepreneurial spirit that should be focused on when considering the motivations of pirates. For the period examined here, David J. Starkey's "Pirates and

⁷¹ Bromley. "Outlaws at Sea, 1660-1720; Liberty, Equality and Fraternity among Carribean Freebooters," p.170.

⁷² *Ibid.* p.171.

⁷³ Pérotin-Dumon. "The Pirate and the Emperor," in *Bandits at Sea: A Pirates Reader* pp.40-41.

Markets” recounts how the massive demobilization of skilled seamen on the heels of the Treaty of Utrecht created an oversupply of specialized labor, which needed to be quelled either through opportunity or violence. At the same time, the high price of shipping goods made the price of necessities, and luxuries, excessively high in the colonies. Starkey makes a convincing case for the predominance of “supply and demand” as the chief causal dynamic of piracy – three forms of demand to be specific.

Given the nature of their offense, pirates were not welcome in any one port for very long. As such, the first level of demand that they had to meet was their own. That said,

...even the most wanton, ostentatious, or dissolute commerce raider was unlikely to consume all that was taken. Prize goods surplus to requirements therefore gave rise to a market, a black market in which cheap stolen properties were purchased by merchants and dealers who generally supplied the established, respectable communities of the Atlantic world.⁷⁴

The second form of demand that pirates met was that of the colonial communities of the Caribbean and North America. Having become used to the availability of cheap goods from the colonies of the maritime powers, colonists gravitated to the black-market warehouses which had been established for the very purpose of purveying illicit, smuggled, pilfered and stolen goods. The third provider of demand for pirated goods was the state, who when desperate for extra military flexibility, would engage the services of pirates to raid the commerce of their rivals.⁷⁵ While this was far more common in the sixteenth and nineteenth centuries, there is also evidence of it happening during the First War of Spanish Succession, despite the reservations of English officials. As Starkey points out, “While

⁷⁴ David J. Starkey. “Pirates and Markets,” in *Bandits at Sea: A Pirates Reader*, pp.113-114.

⁷⁵ *Ibid.* p.114.

demand for the services of pirates did not initiate waves of maritime lawlessness, it played an important part in maintaining the momentum of predatory surges.”⁷⁶

Nowhere is the case for how these economic forces translated into materialistic motivations more clearly stated than in Arne Bialuchewski’s article “Between Newfoundland and the Malacca Strait: A Survey of the Golden Age of Piracy, 1695-1725”.

Bialuchewski argues:

Although there can be little doubt that hardship, low wages, underemployment and poor prospects in the merchant navy form the background to the dramatic increase of piracy in the late seventeenth and early eighteenth centuries, it seems unlikely that these factors would within a few years drive thousands of men into such a risky venture.⁷⁷

Historians who have viewed piracy in an economic light have balanced some of the many competing interpretations into one coherent argument. While recognizing the very real grievances of deep-sea sailors in this period, these grievances have not been exaggerated into a rallying cry for collective action. Confronted with the opportunity for easy gold in an area on the periphery of the state, where the likelihood of being caught was originally quite slim, some sailors found a powerful incentive to cross the line of legality and go “upon the account.” This argument returns us to the importance of seeing pirates as felons. Aside from their shared experiences as deep-sea sailors, the principal common ideology between these rogues was their willingness to discard the law for the chance of better wages, profits and pieces of eight. The fact that there were ties between different pirate vessels, and that they often followed a code of conduct originally established by buccaneers, does not necessitate seeing them as a movement with designs of overturning the social order of the day. Their piratical identity was primarily thrust upon them in

⁷⁶ *Ibid.* p.115.

⁷⁷ Bialuchewski. “Between Newfoundland and the Malacca Strait: A Survey of the Golden Age of Piracy, 1695-1725,” p.167.

accordance with the wider conventions regarding legitimate violence. As Captain Johnson states in his *History of the Pyrates*, maritime bandits were “adjudged” as pirates through the actions they took, and the way they organized their lives to be better skilled “deep-sea marauders.”⁷⁸

As their numbers swelled on the heels of the changes in the labour market, acts of lawlessness on the high seas came to cripple commerce in the Atlantic for all major European players. European states found it necessary to act in order to meet this challenge to their livelihoods. The following section will explore the legislative methods employed by the British state to meet and eliminate the problem of piracy during the Golden Age.

⁷⁸ Defoe. *The History of the Most Notorious Pyrates*, p.3.

Chapter 2

Parliament and Piracy, 1536-1700

Legislative initiatives were one of the foremost weapons in the effort to combat robbery at sea. For England, the adoption of statute and the regulation of civil and common law courts, the legitimate reach of the law, the powers and responsibilities of officials and the rights of the accused had a long history, but in the late seventeenth century these issues were in a state of flux. Despite creating a legislative framework with which to try pirates, socio-economic and logistical factors often prevented the effective trial and prosecution of the accused. As the seventeenth century progressed and after the Restoration, social stability and economic development encouraged the ascendance of a group of skilled professionals who were qualified to tackle the increasingly complex nature of royal authority and international relations.¹ Following years of political upheaval, Englishmen were plunged after 1689 into a global conflagration which saw a steady increase in the size and scope of government.² Although the metropolis reacted to events in the colonies with comprehensive pieces of legislation designed to combat piracy, more often than not during the course of the seventeenth century it tended to shoot itself in the foot. By the turn of the eighteenth century, the actions of pirates in the Indian Ocean so threatened the stability of that region that concerted action could not be avoided. No longer content with show trials and public hangings, Parliament adopted a hard legislative line, informed by legal expertise and major stake-holders in colonial

¹ Steve Hindle. "The Growth of Social Stability in Restoration England" in *The European Legacy*, v.5 (4) (August 2000) pp.563-576. See also J.H. Plumb. *The Growth of Political Stability in England, 1675-1725* (London: Macmillan, 1967).

² John Brewer and Eckhart Hellmuth eds. *Rethinking Leviathan: The Eighteenth Century State in Britain and Germany*. (London: Oxford University Press, 1999) or Thomas Ertman. *Birth of the Leviathan: Building States and Regimes in Medieval and Early Modern Europe* (Cambridge University Press, 1997).

affairs. By the first years of the “Golden Age of Piracy,” England was armed with a rational piece of legislation, designed to diffuse the authority of the central state, with which a “black coat army” could launch attacks on pirates.³

One of the first comprehensive piracy laws England developed was the Act of Henry VIII *For Pirates and Robbers on the Sea*, passed in 1536, which sought to address the inconsistencies with trying pirates under the Civil Law. According to the preamble, the “nature” of the Civil Law held that:

..the trial of their offences hath heretofore been ordered before the admiral or his lieutenant or commissary, after the course of the civil laws, the nature whereof is, that before any judgment of death can be given against the offenders, either they must plainly confess their offence (which they will never do without torture or pains) or else their offences be so plainly and directly proved by witnesses indifferent such as saw their offences committed, which cannot be gotten but by chance at few times, because such offenders commit their offences upon the sea, and at many times murder and kill such persons being in the ship or boat where they commit their offences, which should bear witness against them in that behalf, and also such as should bear witness be commonly mariners and ship-men, which for the most part cannot be gotten ne had always ready to testify such offences, because of their often voyages and passages in the seas, without long tarrying or protraction of time, and great costs and charges, as well of the King's highness, as of such as would pursue such offenders.⁴

The clauses included in this piece of legislation were designed to facilitate the prosecution of pirates, as well as to establish the supremacy of the Common Law. As the

³ For the term “black coat army” see Geoffrey Holmes. *Augustan England: Professions, State and Society, 1680-1730* (London: George Allen & Unwin, 1982).

⁴ “Henry VIII 14 & 15, *For Pirates and Robbers on the Sea*,” in Great Britain. Admiralty. *A Collection of the Statutes Relating to the Admiralty, Navy, Ships of War and Incidental Matters; to the Eighth Year of King George the Third* (London: Mark Baskett, 1768), p.31-32.

noted historian Robert Ritchie points out, this was a compromise, which brought the trial of pirates under special admiralty courts of oyer and terminer empowered under the King's Great Seal and accorded to pirates the sacred English right of trial by jury.⁵ It also ensured that the Lord High Admiral, his Vice-Admirals and lieutenants continued to be the ones who prosecuted the criminals in question, and thus maintained a degree of authority in the matter.⁶ Furthermore, piracy was deemed a felony as though committed on land, as though the pirate were a common murderer, a legal category that allowed for the seizure by the cash-strapped Henrician state of all property belonging to the accused.⁷ The legislation also ensured that the sacred rights of sanctuary and the benefit of clergy were to be denied to the accused, thus removing them not only from a civil community of law-abiding citizens, but also from the Christian one. This was prevented due to complaints of abuse that the "benefit of clergy" brought to fleeing felons.⁸

Finally, the Act drew the lines of jurisprudence squarely around the Confederacy of Cinque Ports, authorizing the trial of pirates anywhere within the five towns where the Admiralty was authorized to issue commissions to try offenders.⁹ These five towns – Hastings, Dover, Hythe, Romney and Sandwich – had traditionally been the most significant contributors of ships to the Crown's service, and as such had been granted customary rights and exemptions since as late as the thirteenth century. Coincidentally, they had also provided some of the most notorious pirates of the medieval period, and

⁵ Robert C. Ritchie. *Captain Kidd and the War Against the Pirates* (Cambridge: Harvard University Press, 1986), p.141. Courts of oyer and terminer were special courts of inquiry that could be convened to investigate particular offences. See J.H. Baker. *An Introduction to English Legal History* (London: Butterworths, 1990), p.20.

⁶ *Henry VIII 14 & 15*, p.32.

⁷ *Ibid.* p.33.

⁸ *Ibid.* p.34.

⁹ *Ibid.* p.35.

had been as likely to attack the Crown as to defend it. Cinque Ports was, however, bound by charter to produce fifty-seven ships a year for fourteen days of service to the King, at their own cost.¹⁰

How effective then was this piece of legislation, which for over 150 years served as the only comprehensive English statute relating to piracy throughout the Empire? The general consensus on it is less than enthusiastic. While the Act demonstrates an interest by the Crown in suppressing seaborne robbery and controlling the customary system of reprisals, the problems in enforcing this legislation were as logistical as they were human.

Despite the rhetoric of well-known polemicists and authors of the period, Tudor England was not a powerful imperial state. It is true that world trade networks expanded under Henry VIII and later under Elizabeth I, but this was a change brought about primarily by continental powers - most notably the growth of Spanish import markets, and the fall of Antwerp as the most important northern trading city - then it was by any concerted effort by the English Crown.¹¹ The Antwerp Crisis forced England's mercantile community to look for other sources of profit than woolens and through their private activities, two distinct geographical spheres of overseas expansion took shape: an eastern, decidedly mercantile sphere in the Levant and the Indian Ocean, and a western sphere that attracted a more adventurous type of merchant who sought to turn profits by

¹⁰ David Loades. *England's Maritime Empire: Seapower, Commerce and Policy, 1490* (Harlow: Longman, 2000), pp.2-3, 21 fn.3.

¹¹ Kenneth R. Andrews. *Trade, Plunder and Settlement: Maritime Enterprise and the Genesis of the British Empire, 1480-1630* (Cambridge: Cambridge University Press, 1984), pp.4-8.

exporting the traditional system of reprisals to the newly discovered American continents.¹²

Private individuals, relying on the patronage of the Crown and the gentry, drove England's earliest manifestations imperial expansion outside of Europe. Meanwhile, the Crown's interests were primarily defensive, seeking to secure royal authority at home while resisting threats to its sovereignty from Scotland, Ireland and the Netherlands. The monarchy implicated itself in imperial designs only through the issuance of monopoly rights to traders who demonstrated loyalty, but it did not direct trade, nor share in ambitions of overseas empire and control of the seaways beyond the Channel. Thus there was no monarchical or state-drawn blueprint for colonial and imperial expansion in this period. In a telling example of Tudor policy, in 1588, the year of the Spanish Armada, Elizabeth demonstrated the priority she gave to the security of the Channel when she denied crucial reinforcements to Roanoke.¹³ Decisions such as this, taken by both Tudor and Stuart monarchs, undoubtedly had a lasting impact in their overseas possessions and contributed in no small part to the attitudes of independence and self-reliance later expressed in the American colonies.

When the will, or the means, of the state was insufficient to properly attack piracy, both Tudor and Stuart monarchs issued Royal Proclamations of pardon to pirates who would turn themselves in by a certain date. Often these pardons included the right to legitimately keep any goods acquired during their piracies. This had the advantage of making 'honest men' of pirates, encouraging them to return to their dockside

¹² *Ibid.* p. 9-10.

¹³ *Ibid.* p.11.

communities of sailors and merchantmen, but it also revealed the inability of the state to properly curb banditry at sea. Ritchie points out that the Tudors issued such general pardons in 1490, 1498, 1519, 1549, 1558, four times in the 1560's, four times in the 1570s, then in 1591, 1599, 1602, and 1603, and that the Stuarts were equally prolific in issuing them. It was common practice amongst pirates to accept a pardon and unload their goods, only to return to the piratical life while awaiting the next pardon.¹⁴

The combination of private imperial expansion, and defensive policies by the Crown could only have exacerbated the problem of banditry at sea, as the state's resources were focused primarily at home, distant from its newfound sources of colonial wealth. The major contributor, the west county ports, to the state's fleet was also the major contributor of pirates, and as long as this remained the case, blanket pardons and half-measures would be the only possible action the Crown could take to curb rampant reprisals and crimes committed at sea. The fact of the matter is that various levels of English society, from the men who sailed the ships to the Admiralty officials who tried pirates, and even the Crown itself, stood to gain from this way of doing business, as the spoils of piratical prizes were divided in Admiralty Courts and distributed to those with legitimate claim. Therefore, no concerted effort was made to eliminate the problem until later in the seventeenth century and this was only because of changes in the type of men who came to government; common lawyers, merchants of the large chartered companies and financiers.

Throughout the fifteenth and sixteenth centuries, state sanctioned private violence was tolerable for three major reasons. First, these skilled mariners provided protection

¹⁴ Ritchie. *Captain Kidd and the War Against the Pirates*, p.142.

against England's continental enemies – the Spanish, the French, and the Dutch. Second, there was a severe shortage of Crown owned ships which could be readily dispatched to meet piratical outbreaks. Third, the facility with which colonists could disappear from one colony to another created a “muddled legal situation surrounding the trials for piracy.”¹⁵ Many colonists placed the Common Law above all other forms, and attempts to introduce civil procedures into the Americas were problematic and quite often ignored or openly resisted. Because there was no basis for the trial of pirates under the Common Law, however, rulings against pirates in colonial courts were frequently overturned.¹⁶

For a number of social, economic and foreign policy reasons, however, these factors began to hold less sway in the minds of an increasingly wealthy and influential group of English people; professionals. The ascendancy of professions in the last quarter of the seventeenth century was a result of a number of structural changes to English society as a whole and had a dramatic impact on the policies of the English state. According to Geoffrey Holmes, “the most important key” to understanding these changes, was population. From 1662 to 1742, England experienced stable population growth, with almost no noticeable population spikes and very little dearth, epidemic or famine.¹⁷ A stable population alone must have had a tremendous ‘stabilizing’ effect on English society at large, but it did not occur in a vacuum. Rather, it fed and more specifically,

¹⁵ *Ibid.* pp.142-143.

¹⁶ *Ibid.* p.143.

¹⁷ Holmes does however qualify that endemic diseases such as smallpox continued their ravages, but they were not aggravated by other concurrent outbreaks. Geoffrey Holmes. “The achievement of stability: the social context of politics from the 1680s to the age of Walpole” in *The Whig Ascendancy: Colloquies on Hanoverian England*, ed. John Cannon, (London: Edward Arnold, 1981), pp.5-6.

was fed by other wide-reaching changes that formed the foundation on which the structure of new political elites could be built.¹⁸

For one, England's agricultural industry enjoyed an appreciable boom from 1650 onwards. From the 1670s on it was established as a grain exporting country, and by 1700, was considered a "country of meat-eaters."¹⁹ Furthermore, agricultural processes saw an increase in productivity, and the success of alternative grain crops such as barley, oats and rye allowed a smaller percentage of the population to feed a larger one. Coupled with cheaper access to goods such as tobacco and sugar from America by the 1680's, and calico and tea from the India by 1730, the most obvious consequence of these developments was a general increase the standard of living of a greater portion of the English population.²⁰ It has also been noted that this period was one where the disposable incomes of many Englishmen significantly increased. From 1688 to 1713, a period of almost constant warfare, the demands for manpower to maintain the war effort made labour a scarce commodity, also contributing to an increase in "real incomes." After the Bank of England's foundation in 1694 the government relied on this institution of high finance to fund its war efforts, thus allowing the state to reach beyond its immediate means, but also growing more dependent on the Crown's subjects for this new military flexibility. And so, decades of increased material prosperity with no consequent

¹⁸This is in line with John Harold Plumb's argument of a period of political stability that allowed English society to prosper and establish itself as a major world player. J.H. Plumb. *The Growth of Political Stability in England, 1675-1725*, (London: Macmillan, 1967).

¹⁹ Holmes, "The achievement of stability," p.6.

²⁰ *Ibid.* p.7.

demographic pressure fostered an increasingly diverse marketplace as well as an increasingly reactive and indebted state.²¹

Families of the ‘middling sort,’ as well as the lower gentry, could now afford to send their younger sons to universities and technical schools, thus assuring them a place of property and respect in a growing body of professionals. The scope of professional classification is wide-reaching, complex and has warranted considerable academic energy to determine who belonged to their ranks, and who was excluded.²² Of note, was the increased participation by the ‘middling sort’ in the so-called “Great Professions,” especially those concerned with the law, the business of government and the development of trade, as they became the ones who informed policy, and helped shape the metropolitan approach towards the dispensing of justice.

The influence of this increasing prosperous British polity can be seen in the changes their economic prosperity and development helped to bring about in the parallel English legal codes; the civil and the common law. The former was the traditional avenue for the high gentry, and continued to be seen as the more respectable field of practice until the end of the seventeenth century. At the onset of the eighteenth century, however, a

²¹ *Ibid.* see also Lee Davison, “Introduction” in *Stilling the Grumbling Hive: The Response to Social and Economic Problems in England, 1689-1750*, Lee Davison, Tim Hitchcock, Tim Keirn, and Robert B. Shoemaker, eds., (New York: St. Martin's Press, 1992), pp.xviii-xxi.

²² For excellent overviews of the increasing wealth and social position of the ‘middling sort’ see Penelope Jane Corfield. *Power and the professions in Britain 1700-1850* (London: Routledge, 1995). Tim Harris. *Politics under the later Stuarts : party conflict in a divided society, 1660-1715* (London: Longman, 1993). Keith Wrightson. *Earthly necessities : economic lives in early modern Britain* (New Haven, CT: Yale University Press, 2000). H. R. French. ‘Social status, localism and the "middle sort of people" in England 1620-1750’. *Past & Present*, no. 166 (2000), pp. 66-99. French. ‘“Ingenious & learned gentlemen’ : social perceptions and self-fashioning among parish elites in Essex, 1680-1740,” *Social History [London]*, v. 25 (2000), pp. 44-66

noticeable shift had taken place. If wages are any indication of social status, it is curious to note that in an era of stably declining prices, the wages of common lawyers, barristers and solicitors steadily increased at a time when the swelling of their ranks should have exhibited a downward market pressure.²³

As more areas of English society came to be regulated by Common Law, the incomes of these lawyers came to exceed those of civil lawyers by a wide margin, even though civil lawyers still maintained a greater deal of prestige in the eyes of the upper social echelons.²⁴ With the disruptions of the war years, 1689-1713, the Common Law area of law became an attractive avenue for social mobility for many families who could afford the Master's in law.²⁵ Fiercely competitive, however, those who would be called to the bar needed to exhibit either strong competence, or great connections. In turn, this engendered a culture of competence amongst government lawyers.²⁶ This was significant for during this period, more and more lawyers and their apprentices came to fill the ranks of various government offices throughout the kingdom, be it in the Exchequer, the Treasury, the Customs and Excise, the Post Office or the office of Town Clerk.²⁷

While the High Court of Admiralty remained within the jurisdiction of the Civil Law, we have already seen the encroachment of Common Law practices upon this exclusivity as early as 1536 with the introduction of juries to cases of piracy. While Tudor and early Stuart England lacked the capacity to effectively enforce this statute, this was not so for the later period, when a contingent of trained common lawyers had made their stunning

²³ Holmes. *Augustan England: Professions, State and Society, 1680-1730*, pp.117-118.

²⁴ *Ibid.* pp.129-135.

²⁵ *Ibid.* p.144.

²⁶ *Ibid.* p.138.

²⁷ *Ibid.* pp.157-161. See also Holmes. "The achievement of stability", p.17.

entry into the English labour market. And while the 1536 Act had somewhat facilitated the prosecution of pirates, it was a far cry from being an effective piece of legislation for a nation whose empire was spreading throughout the world.

The initiative to change the way pirates were tried originally came from the metropolis, but the conflicts between civil and common law jurisdictions and practices would see it defeated. In 1673, an Order in Council required that all pirate trials be held in Admiralty Courts. Given the unfamiliarity with Admiralty proceedings in the colonies, this caused immediate problems. The condemnation of John Deane for piracy by Jamaican Governor Vaughan was overturned by Dr Richard Lloyd, chief judge of the Admiralty, over matters of procedure. Lloyd ruled that the trial had no legal basis, as unless a special commission of oyer and terminer was issued from London the governor had no power to hold such trials. Such a commission was approved in 1677, with the recommendation that the Jamaica Assembly pass its own Act for trying pirates. Following the recommendation, just such an Act “For the Restraining and Punishing of Privateers and Pirates” was passed in the Jamaican Assembly in 1681, allowing for trials in Admiralty Courts in accordance with the 1536 statute under the oversight of a royal official who would curb the colonial inclination to let pirates walk.²⁸ The Act was repealed by London two years later.

Frustrated by insolent Royal Navy captains, Vaughan’s successor, Thomas Lynch, wrote to the Lords of Trade and Plantations in December of 1683 requesting that his powers as vice-admiral be clearly defined. He wanted to know if he was authorized to issue orders to navy captains, and if he had the right to try Royal Navy officers in a court-

²⁸ Ritchie. *Captain Kidd and the War Against the Pirates*, p.144.

martial? Under the present conditions these captains, who claimed to only take their orders from the distant Admiralty itself, were operating above the law and with a lofty sense of prerogative. Sending off Lynch's complaints for a legal opinion, the ensuing report invalidated not only Lynch's authority as a vice-admiral, but the colonial Admiralty Courts and the Jamaican antipiracy law as well. Furthermore, the special commissions of oyer and terminer were discarded as according to the report, since the 1536 statute "doth not extend to the plantations." Efforts to broaden the powers to try pirates to the colonies had been defeated, and the government's policy, which had been circulated to all the colonies in the two previous years, was invalidated. Over the next decade problems in trying pirates persisted. Colonists had little inclination to confront pirates, and many governors continued to use piracy and privateering as a means of supplementing their income.²⁹

In 1688, the British Isles were convulsed by the Glorious Revolution, which placed Mary II and William of Orange (William III) on the throne.³⁰ The following year, England entered a period of almost constant warfare with France. Initiated over European concerns (particularly William's constant struggle with Louis XIV's France), these wars rapidly took on a global dimension as the resources and strategic value of the colonies became crucial to the warring states. With the concurrent expansion of government offices and their staffing by men generally skilled in the law, came an era of increasingly rational government policy. One of the most significant developments was the replacement of the old Lords of Trade with a much more active Board of Trade and

²⁹ *Ibid.* pp.145-151.

³⁰ For a more detailed account of the Glorious Revolution see Julian Hoppit. *A land of liberty? : England, 1689-1727*, (Oxford: Clarendon Press, 2000).

Plantations in 1696 that attracted a number of members with an actual stake in the colonies. Its original membership consisted of lifetime civil servants with the ear of the Crown such as William Blathwayt, that great thinker of the Glorious Revolution and celebrated proponent of property rights John Locke, and a number of merchants trading with various parts of the known world. Some of the original members, such as John Pollexfen, not only had a substantial trade with Spain, but also sat in Parliament.³¹ The Board was essentially an advisory body, given consultative authority. As an instrument of policy it was ineffective, as all its representations were directed towards Parliament for enactment, and any maritime recommendations needed official approval of the Admiralty, whose military priorities were often in contradiction to trade policy. Nonetheless, as a source of expert intelligence, it was invaluable. A great deal of correspondence passed through the Board's hands from 1696 onwards, and given the political volatility of piracy in the last decade of the seventeenth century, many of its policies on piracy and privateering received very close attention by Parliament.³²

In same year that the Board was created (1696), Parliament passed *an Act for preventing Frauds and regulating Abuses in the Plantation Trade*. This saw a legion of customs officers make their way to the colonies, and the rise of a network of Vice Admiralty courts to oversee mercantile affairs. While still not a comprehensive piece of

³¹ Ian K. Steele. *Politics of Colonial Policy*, (London: Oxford University Press, 1968), pp.95-177 and D.W. Hayton. *The House of Commons 1690-1715*, (Cambridge: Cambridge University Press, 2002), p.733.

³² Steele. *Politics of Colonial Policy*, pp.42-59.

anti-piracy legislation, the appearance of these two appendages of the state is a clear indication of an impetus to rationalize trade.³³

Structures for the control of imperial trade and colonial expansion, however, only manifested themselves after the actions of sea robbers in the Indian Ocean began to be felt in the metropolis and by the East India Company. News of the seizure of the Mogul's *Gunj-i-Suwae* by the pirates Avery and Tew in 1695 spread throughout the empire. The ship, carrying many aristocratic pilgrims returning from Mecca, was said to have granted the pirates booty valued at £180,000. The three day orgy of rape and pillage enraged the people of its home port, Surat, and violent riots broke out against East India Company factors who according to a treaty in 1690 had promised protection to Indian shipping. English shipping came under embargo, and diplomatic relations with the Indians were seriously menaced.³⁴ In turn, pirates flocked to the Indian Ocean like flies to a corpse. The most notorious of these marauders, then and now, was Captain William Kidd. The actions of this one privateer turned pirate seriously jeopardized England's relations with India and his subsequent trial threatened to bring down a government. Furthermore, from a legislative perspective, the actions of Kidd and his crew served as a catalyst for a concentrated state effort to attack the weaknesses in the legal apparatus which allowed piracy to flourish.

Having profited for most of his career from the tumult of war in the Caribbean and the shifts in power in New York's government, Kidd learnt early on the material and political advantages of faction and patronage. Resolute on joining the flood of pirates

³³ Ritchie. *Captain Kidd and the War Against the Pirates*, p.150.

³⁴ P. Bradley Nutting. "Parliament and Piracy, 1690-1701," *The American Journal of Legal History*, v.22, (1978), pp.205-206.

making their way to the Indian Ocean to prey on Mughal ships, but also concerned with protecting his future treasures, Kidd made his way to London in 1695 in the hopes of finding a patron who would grant him a letter of marque to hunt pirates in that ocean – thus making him a legitimate privateer.³⁵ Although the Admiralty had stopped issuing privateering commissions that year, through his personal connections Kidd came into contact with the most powerful men in the British Isles – the *Junto* and King William III.³⁶ That they became interested in Kidd's endeavour assured him his commission. When their patronage later became revealed, however, it sparked a high political scandal of severe magnitude.

In brief, in 1696, after months without prize, Kidd and his crew turned rogue. Although any vessel that crossed his path became a target of his particular brutality, his seizure of the *Quedah Merchant* in 1697, a ship of the Mughal court, held the most dire repercussions. Yet again, English pirates had attacked Indian shipping despite assurances

³⁵ Ritchie. *Captain Kidd and the War Against the Pirates*, pp.29-43.

³⁶ This affluent group of men, also called the “Whig lords,” controlled Parliament through patronage and royal approval. The quality of their membership leaves little doubt as to the extent of their political and legal power. Thomas, Lord Wharton, used his influence to appoint 20 to 30 members to the Commons. Charles Montague, first Earl of Halifax, overcame his birth as the youngest son of a youngest son to become First Lord of the Treasury and Chancellor of the Exchequer. Henry Sidney, first Earl of Romney, who despite having little talent as an administrator, was a lifelong supporter of William and a master manipulator. John, Lord Somers, started his career as a common law lawyer and rose to the position of Keeper of the Great Seal – a position that gave him control of all judicial appointments – through his exceptional ability and moving oratory. Edward Russell, first Earl of Orford alternated between the titles of Admiral of the Fleet and Treasurer of the Navy. Finally, Charles Talbot, Duke of Shrewsbury, also known as the “King of Hearts,” was King William's favorite, a reputed patron of the arts, friends with John Locke and, reluctantly, Secretary of State even when his deteriorating health made it impossible for him to effectively continue in this function. *Ibid.* pp.44-47.

from the East India Company. Unfortunately for the Company, Kidd's actions became associated with them.³⁷

The 1690s were a difficult decade for the East India Company. During this period another group of merchants, formerly members of the E.I.C., came to challenge the traditional monopoly enjoyed by England's most profitable corporation. While extravagant bribes in 1693 had managed to extend the traditional charter, it was only accorded for five years. By 1698, these renegade merchants, now associated with the Whigs, were duly chartered as the New East India Company and allowed to trade with the Indies in direct competition with what was now known as the Old East India Company. The taking of the *Quedah Merchant* had infuriated the E.I.C., and threatened to put an end to relations with the Mughal's court. Already facing declining trade, competition at home, and injury to its reputation, the company concentrated its efforts in the following months to making a scapegoat out of Kidd. Their representation in Parliament, alongside other merchants who also desired rationalized trade, made them a formidable interest group.

From 1690 to 1715, twenty-seven men who had some significant affiliation to the East India Company sat in the House of Commons. Another ten, affiliated to the incumbent company also had seats. Seven members of the old Company sat in the 1695 Parliament, while none from the new Company did. In the Parliament of 1698, when the charter of the New East India Company was granted, ten members of the Old East India Company took a seat in the Commons, while three members of the new Company did. Three years later, the year of Captain Kidd's execution, nine members of the Old East

³⁷ *Ibid.* pp. 99-111, pp.120-125.

India Company took their place at Westminster, alongside eight members of the rival corporation.³⁸ In a pool of 550 to 600 M.P.s, in any given Parliament, these numbers alone appear a pittance. They become significant in the context of trade oriented legislation, however, when placed alongside other members of parliament similarly involved in foreign trade, finance, and other forms of business.

Between 1690 and 1715, the high-water mark of mercantile involvement at Westminster came between 1695 and 1701. In these parliaments, approximately 16% of the House was composed of men involved in business with the greatest concentration coming in the 1695 Parliament – the one responsible for passing the Navigation Acts in 1696 – which had 18.4%, or 103 Members from the merchant community. The following election, in 1698, was composed of 95 men of business; 17.4% of the House.³⁹ The presence of this “moneyed interest” in the Commons during the last years of the seventeenth century helps to account for the increase in trade based legislation, as well as the pressure to take a hard line towards piracy. The area of specialization of these merchants was also divided along party lines, with those with Whig leanings dominating the Iberian and the Baltic trade, and Tories figuring prominently in the East Indies and the financial sectors.⁴⁰ Furthermore, these men were supported by those with interests in other chartered companies, such as the Royal Africa and Hudson’s Bay Companies, and traders with interests in the West Indies.

Kidd returned home to a political firestorm. Tories allied with the E.I.C., having caught wind of Kidd’s patrons, decided to vote for a censure on the *Junto*, but the motion

³⁸ Hayton. *The House of Commons*, pp. 568-605,731-740.

³⁹ *Ibid.* p.307.

⁴⁰ *Ibid.* p.310.

never passed. Throughout his trial, Kidd had protected Shrewsbury and Somers, perhaps hoping they would help him escape death. It was a bad gamble. Somers, Orford and Halifax were under threat of impeachment by Tories seeking political leverage in the situation and high placed officials throughout London had their personal correspondence seized and read. Kidd was cut loose by his sponsors, tried and convicted, and hanged on May 23rd, 1701.⁴¹ His body was displayed in a crow's nest at the entrance to the Thames as a warning to all who considered turning pirate. While bringing to light the ties between high political officials and pirates, the incident also underlines the important role that the English mercantile community played in generating legislation to combat the problem of piracy.

In the wake of the Kidd rage, in 1700, William III issued *An Act for the more effectual Suppression of Piracy*. Owing to the political hostility of the House towards pirates, the final version of the Bill was, in fact, stricter than the drafts recommended by Secretary of State, Sir Charles Hedges and the Board.⁴² As with the 1536 Bill, this Act restated that the right to prosecution of pirates derived from the King's Great Seal. As will be shown, however, with this piece of legislation the authority of that seal had been diffused to the furthest reaches of the empire. One of the most important innovations was

⁴¹ Ritchie. *Captain Kidd and the War Against the Pirates*. p.222. Hearing word of an impending trial that awaited him, Kidd hid his treasure in many places on the North American continent; an act that some historians have attributed to the legends of pirates hiding their treasure and drawing up elaborate maps indicating its location. David Cordingly. *Under the Black Flag: The Romance and Reality of Life Among the Pirates* (New York: Harcourt Brace & Company, 1995). p.190.

⁴² Steele. *Politics of Colonial Policy*, p.56.

the decision that pirates would no longer have to be sent to England for trial.⁴³ This was a tacit recognition of the fact that when dealing with marauders who operated globally, the cost, time and expense of bringing pirates and witnesses within immediate jurisdiction of the High Court of Admiralty was inefficient. The Act stated that pirates could now be tried;

in any place at sea, or upon the land, in any of his Majesty's islands, plantations, colonies, dominions, forts or factories, to be appointed for that purpose by the King's commission or commissions under the great seal of England, directed to all or any of the admirals, vice-admirals, rear-admirals, judges of vice-admiralties, or commanders of any of his Majesty's ships of war, and also to all or any such person or persons, officer or officers by name, or for the time being, as his Majesty shall think fit to appoint.⁴⁴

The Act thus allowed for any respectable individual to be appointed with a commission to try pirates. Where the Henrician statute allowed for trial by jury of twelve by any commissioned officer of the Admiralty, this Act stated that anyone the King deemed worthy of holding a warrant, even a private citizen, could oversee the trial of pirates with a jury of seven. It specified the "qualified" as merchants, planters, factors, captains, lieutenants, or warrant officers, and masters and mates of any English ship – essentially, anyone holding a royal writ. It had been noted that the decision to allow prosecution not only to "men of substance" but to any warrant holder ensured that the person overseeing the trial would be inclined towards prosecution.⁴⁵ This addressed one of the main problems the government had encountered in trying pirates; the ability to find

⁴³ "11 & 12, William III. *An Act for the more effectual Suppression of Piracy*," in Great Britain, Admiralty. *A Collection of the Statutes Relating to the Admiralty, Navy, Ships of War and Incidental Matters; to the Eighth Year of King George the Third*, p.205.

⁴⁴ *Ibid.*

⁴⁵ Steele. *Politics of Colonial Policy*, p. 56.

‘hanging judges.’ Furthermore, by reducing the number to seven, it also circumvented the problem of finding twelve men to serve as jury. Those appointed with these commissions had the right to appoint members of the “court” and assemble juries.

Further diffusing the power of the Great Seal, these commissioners could appoint notaries of the court. It was preferable when possible that this notary be legally trained, but in absence of such skilled men, such as on many ships, literate men would do. The notary was charged with providing all necessary articles for the trial, and acting as Register of the court. Furthermore, the notary could issue warrants and subpoenas ordering individuals to be brought before the commissioner. This allowed a great deal of flexibility to the commissioners, who could modify charges, within reason, to suit the circumstances of the particular case and order reluctant witnesses to testify immediately with full royal authority.⁴⁶ The entire ritual of the trial was laid out in the statute to prevent “intolerable abuses.” It delineated a clear process which the court would follow, from the administration of the oaths, to the calling of witnesses, the right of the prisoner to speak in his defense, the process for sentencing, the public announcement of the execution and the setting of the date of execution for those “attainted” with piracy.⁴⁷

The statute of William III also addressed weaknesses in previous pieces of legislation. In 1682, Parliament ordered and obligated sailors on board ships to defend their cargo. Sailors frequently refused to fight when pirates attacked, as their salary hardly justified the risk of receiving attention from sea robbers. In many cases, pirates did not harm mariners, as they knew the latter had little inclination to defend the ship’s

⁴⁶ “11 & 12 William III. pp.211-212.

⁴⁷ *Ibid.* pp.210-211.

booty. After 1682, the defense of the ship was delegated to those who had the least interest in carrying out the will of the state.⁴⁸ The statute of 1700 sought to address this in two ways.

Acting as a pirate in any way, laying hands on one's master to prevent the defense of the ship, or assisting pirates in their activities, would have the guilty party adjudged a pirate and sentenced to death. This made possible the detention and execution of sailors who facilitated raids on merchant shipping either through action or inaction. This stick did, however, have a carrot. Sailors successfully defending a ship were to be rewarded. Should a ship be successfully defended against pirates, and some men killed in the fight, an admiralty judge from the ship's home port could issue a reward. The judge would consult with four affluent merchants having no interest in the ship's goods, in order to levy from the owner a suitable amount to be distributed amongst the surviving members who had fought in the battle. The reward was not to exceed two percent of the original cost of the freight. Similarly, a reward of £15 was to be paid by the captain, commander, or master of a vessel whose sailors prevented a mutiny, to be paid in the port where sailors would have received their wage.⁴⁹ Legally, sailors were now given inducements, instead of just obligations, to act towards the defense of cargo, and through these rewards become agents of normalized commerce. Further enforcing the defense of freight and the hindering of piratical activities, Parliament included a clause that the Board had recommended against: the inclusion of "accessories" to pirates.

The Act made reference to "several evil disposed persons, in the plantations and elsewhere" who "have contributed very much towards the increase and encouragement of

⁴⁸ Ritchie. *Captain Kidd and the War Against the Pirates*, pp.146-147.

⁴⁹ "11 & 12 William III," p. 212 and p. 215-217.

pirates, by setting them forth, and by aiding, abetting, receiving and concealing them and their goods.”⁵⁰ By this period, pirates had effectively become wholesalers to a network of merchants throughout the Caribbean and the Americas who relied upon these marauders for access to cheap goods and ready transportation between colonies and empires in order to supply colonial clientele with the necessary services the central state was incapable of offering.⁵¹ The statute would have anyone involved in this illicit trade charged as an accessory to pirates, liable to the hangman’s noose and the forfeiture of all lands, property, and chattels.⁵² The Board recommended against inclusion of this part of the Act, fearing the Bill might not pass. Colonial citizens had already been turning a blind eye to the growing black market operating around them – it served a purpose and allowed them to live in a greater degree of comfort than was possible through legitimate means. Undoubtedly, the Board felt that passing the burden of piracy unto the backs of those who were beneficiaries of piratical activities would prevent people from coming forward and serve only to enforce the culture of silence that already surrounded illicit trade. The prosecution of accessories was probably the most glaring weakness of the Act, requiring that they be sent back to Cinque Ports in accordance with the original Tudor statute of 1536.⁵³ The Act was meant to diffuse prosecution of pirates more broadly. A statute which obligated the return of key suspects and witnesses to England could very readily sabotage cases.

⁵⁰ *Ibid.* p.213.

⁵¹ David J. Starkey. “Pirates and Markets,” in *Bandits at Sea*, C.R. Pennell (ed.), (New York: New York University Press, 2001), pp.113-114.

⁵² “11 & 12 William III,” p.213.

⁵³ Steele. *Politics of Colonial Policy*, pp.55-56.

In light of governors such as Benjamin Fletcher of New York, who largely contributed to New York City's reputation as the world's foremost supplier of pirates, or William Markham of Pennsylvania "who befriended anyone with ample gold in his pockets,"⁵⁴ Parliament also used this Act to send a clear message to colonial officials. Commissioners empowered by this legislation were to receive the full cooperation of all government representatives abroad, be they captains, lieutenants, merchants or governors by freely delivering unto them all pirates and accessories to them. Regardless of whether the colony was a Crown, chartered, or proprietary colony, commissioners were authorized to set up their courts and hold executions. Failure to cooperate resulted in the unilateral revocation of that colony's charter. The Act was to last seven years, and was to be renewed in 1707.⁵⁵

The legislation in itself was, by and large, inspired by the actions of Captain Kidd, but was not in place in time to be used against him. Instead, Kidd was tried under the old statute. While Kidd's execution was preordained by the era's political powers, seeking a notorious scapegoat whose execution would appease both the East India Company and the Great Mughal other trials were not handled as closely.⁵⁶ That said, pirate trials no longer needed to be followed closely by London, as the colonies were now charged with the task. With this Act, Englishmen who believed in rationalized international relations and normalized trade finally had an effective piece of legislation that could serve their interests. With it, in matters of piracy, the reach of the law was increased.

⁵⁴ Ritchie. *Captain Kidd and the War Against the Pirates*, p.150.

⁵⁵ *Ibid.* p.217.

⁵⁶ *Ibid.* pp.206-229.

The Act remained in place for 22 years. The next comprehensive piece of pirate legislation available to British and Imperial Authorities appeared under George I. In 1718, in the face of one of the worst piratical outbreaks the world has witnessed, the Act of 1700 was made perpetual; a clear recognition of its usefulness. By 1722, the Hanoverian state reinforced it in a new piece of legislation far stricter than its predecessors. The preamble stated that despite some adequate measures taken in 1700; “the trade and navigation into remote parts will greatly suffer, unless some further provision be speedily made for bringing such persons, and all others, who shall be anyways aiding and assisting, or in confederacy with [pirates], to condign punishment.”⁵⁷ This new legislative instrument was far stricter on accessories than past statutes had been so that simple correspondence with someone knowingly guilty of piracy would have the accessory found guilty of piracy as well. Furthermore, wrecking goods by throwing them overboard was to be considered piracy. In brief, those, apparently leniently, declared accessories in William’s law of 1700 were to be considered “principal” pirates under these new regulations.⁵⁸ This clause reflects the influence of changing perceptions of wealth and commerce, as well as the importance of law to protect private property. It is no coincidence that this statute was issued precisely when Britain was in the midst of what some noted historians describe as a “Commercial and Financial Revolution” and in an era – the long eighteenth century – in which the perceptions of property – ‘Lockean private property’ – were expanding to embrace the commodities of not only that

⁵⁷“8 George I. *An Act for the more effectual suppressing of Piracy,*” in Great Britain. Admiralty. *A Collection of the Statutes Relating to the Admiralty, Navy, Ships of War and Incidental Matters; to the Eighth Year of King George the Third,* p. 333.

⁵⁸ *Ibid.* pp. 334-335 & 337.

commercial revolution, but also of new-found trade and industry and the fruits of empire.⁵⁹

A more concerted effort was also made to take on the smugglers and traders whose mercantile activities allowed pirates to continue to operate. Any ship fitted out with the specific design to trade with pirates was *ipso facto* forfeit. Half the value was to go to the Crown, the other half to the informant who made the discovery.⁶⁰ Should the commander of a vessel trade on the high seas, receive anything other than gold, silver or jewels unless the ship they took from was shipwrecked and the goods taken salvaged for their owners, then that commander or master would be summoned before a court martial, lose his post, and would forfeit his wages to the Crown. Perhaps more significantly in an era of increasing professionalism, that commander would never again be allowed to serve in that capacity again – thus forfeiting their careers. Moreover, the masters and proprietors of any vessel who received goods at sea would pay half the value of the goods to the person making the discovery and the other half to the Greenwich hospital. Such forfeitures could be sued over and recovered in the High Court of Admiralty.⁶¹ Further enforcing the role of ordinary seamen in the defense of the ships and their freight, it was ordered that in addition to benefits laid out in the act of Charles II, 1682, mariners

⁵⁹ See, for example, Timothy Hall Breen. "'Baubles of Britain': The American and Consumer Revolutions of the Eighteenth Century'. *Past & Present*, 119 (1988), 73-104. T. Breen. 'An Empire of Goods : The Anglicization of Colonial America, 1690-1776'. *Journal of British Studies*, 25:4 (1986), 467-499. John Brewer and Susan Staves. *Early modern conceptions of property* (London & New York: Routledge, 1995). John Brewer, Roy Sydney Porter (eds.). *Consumption and the world of goods* (London: Routledge, 1993). Neil McKendrick, John Brewer, John Harold Plumb. *The birth of a consumer society: the commercialization of eighteenth-century England* (Bloomington: Indiana University Press, 1982).

⁶⁰ "8, George I," p.336.

⁶¹ *Ibid.* pp.339-341.

wounded while defending their ship against pirates would receive priority at Greenwich hospital. Alternatively, those failing to take up arms against brigands would lose their wages, with no recourse to appeal, and potentially face up to six months in prison. To further discourage them, the Act held that no seaman would receive more than half his wage in advance, on penalty of the master paying the man who discovered this double the amount advanced.⁶²

It is clear from these clauses that the law was not only a tool for the protection of property, but also of discipline and punishment. During this period, as one of the experts on class and criminality, Douglas Hay, points out, the British legal system was developing into a coherent expression of “majesty, justice and mercy.”⁶³ In the statute of George I, it is clear that the commanders of vessels were subject to punishment, as was the sailor. This reflected an emerging ideology of “equality before the law,” through which wronged, or heroic sailors and commanders could expect reprieve before these special courts of Admiralty, just as much as they could expect punishment for refusing to act in their country’s interest. Despite the unfortunate abuses of the system, which allowed for the wealthy to escape consistent punishment, the perception of justice was reinforced strongly enough through elaborate ritual and the occasional conviction of the mighty to create a belief in the relevance of the law.⁶⁴ Despite the portrayal of this legal assault by historians, such as Markus Rediker, as “State terror,” the purpose of the law as a shield *and* a sword was taking shape.⁶⁵ Hay states that “The law was held to be the

⁶² *Ibid.* pp.337-339.

⁶³ Douglas Hay “Property, Authority and the Criminal Law”, in *Albion’s Fatal Tree*, Douglas Hay *et al* (New York: Pantheon Books, 1975) p.26.

⁶⁴ *Ibid.* p.33.

⁶⁵ Rediker. *Villains of All Nations* (Boston: Beacon Press, 2004), pp.1-18.

guardian of Englishmen, of all Englishmen. Gentlemen held this as an unquestionable belief: that belief, too, gave the ideology of justice an integrity which no self-conscious manipulation could alone sustain.”⁶⁶ This is also expressed by the noted social historian

E.P. Thompson:

...what we have observed is something more than the law as a pliant medium to be twisted this way and that by whichever interests already possess effective power...people are not as stupid as some structuralist philosophers suppose them to be. They will not be mystified by the first man who puts on a wig. It is inherent in the especial character of law, as a body of rules and procedures, that it shall apply logical criteria with reference to standards of universality and equity.⁶⁷

By 1701, England had adopted a legislative approach towards piracy that mirrored the social and economic changes taking place in its society. In this regard, the law made sense to them. As a larger strata of society could permit itself to acquire wealth, purchase luxuries, and participate in the political life of their country, legal tools were devised to help protect property and stabilize the empire. England was no longer a bit player in international affairs; it was a growing imperial state with a wide reach and interests around the globe. The continued presence of piracy menaced the stable relations necessary for rationalized trade between European states, Britain and its colonies and the continued growth of the English domestic market. Parliaments between 1690 and 1700 increasingly passed effective legislation designed to control abuses that hindered the flow of goods, and punish offenders through the exemplary and ritualized dispensing of justice. In order to make this legislation effective, Parliament decided on a course of

⁶⁶ Hay. “Property, Authority and the Criminal Law,” p.35.

⁶⁷ E.P. Thompson. *Whigs and Hunters* (London: Penguin Books Ltd. 1977) p.263.

action which delegated responsibility for the trial of pirates to wandering commissioners and colonial governors.

The study of metropolitan legislation and domestic change when considering an imperial state, however, can only reveal so much. The very nature of the 1700 and 1722 statutes diffused responsibility to the colonies. Therefore, questions that bear upon the colonial condition must be answered if we are to understand the methods with which piracy was fought. How was the legislation received in the colonies – particularly the American and Caribbean ones? Did the more stringent clauses of the 1722 statute reflect reluctance on the part of newly empowered colonial courts to try piracy? With the renewal of hostilities with France in 1702, did piracy and privateering continue to offer an acceptable solution to problems of manning Royal Navy ships? These are the questions we must now turn to.

Chapter 3

From Governor to Guv'ner; Obstacles to Effective Implementation of Trade Policy in the American Colonies, 1701 - 1704

Shortly after the adoption of the 1700 statute on piracy, the Board of Trade and Plantations gave instructions to George Larkin, a formally trained lawyer, to tour the royal colonies, take oaths from Commissioners of pirate trials, and aid the colonies in matters of procedure for the proper establishment of special courts of oyer and terminer.¹ In December of 1701, he inadvertently came across two pirates who had been tried and convicted with Kidd. This chance encounter prompted a trans-Atlantic investigation that revealed the continued interest powerful men had in the Kidd affair and served as a test case for the new statute.

While in Philadelphia, Larkin caught wind of two men, Nicholas Churchill and James How, who were rumored to have bribed the keeper of the gate of Newgate prison with 300 guineas, so that they could make their way to Pennsylvania to recover money Kidd had scuttled along the eastern seaboard before making his way to Boston to face arrest. According to local inhabitants Churchill had recovered £800 and How, £1500.² The most logical source of this money was one of the many hidden treasures Kidd had scattered along the Eastern seaboard. If contemporary estimates of Kidd's total haul are accurate, How and Churchill would have recovered 20% to 25% of the treasure – money which many powerful men in London still believed belonged to them. In the wake of a

¹ Ian K. Steele. *Politics of Colonial Administration* (London: Oxford University Press, 1968) p.56.

² *Calendar of State Papers, Colonial; America and West Indies (C.S.P.C.A.W.)*, ed. Cecil Headlam, v.20, (Vaduz: Kraus Reprint Ltd., 1964,) Entry 470.

flurry of inquiries into the activities of government officials in London and the colonies, the thought of two of Kidd's crew loose in the colonies proved cause for alarm. Nevertheless, the attention paid to these two pirates is striking if not inordinate.

Verification of paperwork relating to the Kidd case began anew. The first concern was whether all documentation concerning Kidd had actually reached London. Captain Thomas Clark, of New York, sent word to the Board of Trade and Plantations in February 1702 that he had sworn, under oath, to have delivered all information pertaining to Kidd, be it treasure, writings, books or papers, to the Governor of New England, the Earl of Bellomont.³ In the absence of proof that documents had been withheld, the Board began to inquire as to how these men came to be released? Had they in fact bribed their way out of Newgate prison and fled to the colonies?

Much of the correspondence surrounding the investigation originated from, or passed over the desk of William Popple, the Secretary of the Board. Popple was by training a merchant and a writer. He had spent the better part of the 1670s and 1680s in Bordeaux, where he oversaw his trade interests and wrote a treatise on religion titled *A Rational Catechism* (1687). After returning to London at the onset of war in 1688, he met William Penn, translated Locke's *Letter on Toleration* from Latin to English, and became the secretary of Locke's Dry Club, a social institution set up to debate issues of religious liberty. When Locke was appointed to the Board of Trade in 1696, Popple was made its secretary.⁴ During this period, Popple became associated with the Earl of Bellomont, and during the protracted investigation into government corruption following

³ *C.S.P.C.A.W.* v.20 #164.

⁴ Thomas Seecombe, 'Popple, William (1700/01–1764)', rev. C. S. Rogers, *Oxford Dictionary of National Biography* (Oxford University Press, 2004).

the Kidd affair, his personal papers were seized and scrutinized.⁵ Despite early misgivings about Popple's competence for the post of Board secretary, Locke's friend soon overcame this handicap through sheer diligence and competence. He was soon granted, even in Locke's absence, the right to open all colonial correspondence and during the reign of Queen Anne, he came to be seen as an expert on colonial affairs until his retirement in 1707.⁶

On March 20th, 1702, Popple wrote to Henry Newton, the Advocate to the Lord High Admiral, stating that two men (Churchill and How) who had cruised with Kidd had fled to Pennsylvania, recovered money from an unknown location, and "have in such a manner garnered the affection of the citizens of that colony." By what means, Popple asked, had these two convicted felons come about their freedom?⁷ Sharing the same sense of urgency in the matter, Newton responded the following day. Newton wrote that Churchill and How would have been pardoned under the Royal Proclamation issued by William III to pirates in May of 1701; the very same month Kidd was delivered to the gallows. Verifying this information, Newton discovered that Churchill and How were actually recorded on the Newgate pardon of August 28th, 1701, but there was no account of them pleading their case.⁸ Newton's diligence in the matter was not surprising given his powerful connections. He was, after all, a longtime friend of the leading 'Whig lord' John Somers. Newton's friendship with Somers had ensured him the patronage post of

⁵ Robert C. Ritchie. *Captain Kidd and the War Against the Pirates* (Cambridge, MA: Harvard University Press, 1986), p.195.

⁶ Popple was replaced by his son – also named William Popple. Steele. *Politics of Colonial Policy*. p.25. Seccombe, 'Popple, William (1700/01–1764),' *Oxford Dictionary of National Biography* (Oxford University Press, 2004).

⁷ *C.S.P.C.A.W.* v.20. #223.

⁸ *C.S.P.C.A.W.* v.20 #227.

Master in Chancery in 1699.⁹ The post of Master in Chancery was a powerful sinecure which granted its bearer not only access to important government documents, such as patent and treaty rolls, but also the ability to dole out patronage himself. The Master in Chancery was responsible for the appointment of lesser clerks.¹⁰ Given Somers' recent menace of impeachment in Parliament, this was an opportunity for Newton to help silence threats to Somers' reputation.

Three days later, and this time on behalf of the Board, Popple asked whether the pardon stood despite the fact that the pirates' case had not been plead.¹¹ Newton promptly responded that the pardon was in theory absolute; a manifestation of the supposed finality of royal prerogative. There was, however, a technicality in this particular case. As a condition of their bail, How and Churchill were required to have their case heard at the following General Session of the Admiralty. A warrant could be issued for their arrest to that effect, should the men not appear. As a thinly disguised hint, Newton pointed out that a General Session had not met in some time.¹² Men interested in either silencing Churchill and How, or acquiring what they felt was their just share of Kidd's spoils, found a legal mechanism by which they could be brought back to London.

Word of Churchill's capture reached the Board on May 5th, 1702. While those concerned parties in London knew that the two pirates had been legally pardoned, this was not the case in the colonies. The persistent colonial version of events had it that

⁹ Stuart Handley, 'Newton, Sir Henry (1650–1715)' (*Oxford Dictionary of National Biography*, Oxford University Press, 2004).

¹⁰ J.H. Baker. *An Introduction to English Legal History* (London: Butterworths, 1990). pp.115-116.

¹¹ *C.S.P.C.A.W.* v.20 #245.

¹² *C.S.P.C.A.W.* v.20 #250.

Churchill and How had bribed their way out of Newgate. Churchill was apprehended and arrested in Barbados. Vice-Admiralty judge Charles Buckworth issued a warrant for the arrest of Churchill as the pirate convicted with Kidd, but “escaped” from Newgate. According to the Council of Barbados, upon apprehension, Churchill denied his identity, only to later recant and protest that he had been pardoned and that the rumors of his escape were a fabrication. Having no proof of his pardon, he was arrested and sentenced to hang.¹³ Coincidentally, the man who discovered Churchill, while touring to the Caribbean to fulfill his instructions, was George Larkin.

Larkin reported that while on his way to Antigua, he had caught wind of Churchill in Barbados and had him arrested. Upon arrest Churchill’s remaining possessions, £100, were placed in the hands of the Vice-Admiralty judge while awaiting the Crown’s decision.¹⁴ Within a matter of months, Churchill had spent several hundred pounds – regular fare for a pirate. Churchill and How had acquired the “affection” of the citizens of Philadelphia, likely by engaging in an orgy of spending and drinking. As such, it would not be a stretch to assume that Churchill had continued this behavior all the way to the Caribbean, leaving a trail of spent funds from port to port.

Churchill continued to fight for his life. Several days after his capture, he petitioned for his discharge, release and return home through the Court of Chancery of Barbados. Given that the right to hear petitions was considered sacred on the island, and protected by oath, the Board ordered that Churchill be released and sent back to England as soon as possible. Word reached the Board on May 19th, 1702, that Churchill had been

¹³ *C.S.P.C.A.W.* v.20 #424.

¹⁴ *C.S.P.C.A.W.* v.20 #458.

sent back to England, along with his petition.¹⁵ Petitions for pardon were intrinsic to the English legal system. In part they represented the merciful arm of the law – the notion that alongside its disciplinary actions, the state was also capable of grace, leniency or mercy.¹⁶ Furthermore, the rituals of the petition system served to reinforce patronage and power relationships as they often required a well connected sponsor to be heard. In such a manner, convicted criminals had to rely on the same social group which had punished them for their pardons.¹⁷ More practically, however, pardons served as a check on a legal system which did not make provisions for justifiable criminal actions. The English Common Law, for example, did not provide for homicide committed in self-defense, and as such relied upon the pardon for mitigation. This, in turn, led to constant abuse, as pardons were often issued over money and influence instead of the individual merits of the appellant's case. By 1700, pardons were overseen more regularly by trial judges, whose observations on the corruption inherent in this system would eventually contribute to the rewriting of felony laws in the nineteenth century.¹⁸ Without either money or influence, Churchill's petition stood little chance of success. Of course he undoubtedly had little reason to suspect that he would be incarcerated; he had, after all, received the unconditional pardon of the Crown.

¹⁵ *C.S.P.C.A.W.* v.20 #470 and 504.

¹⁶ Douglas Hay "Property, Authority and the Criminal Law", in *Albion's Fatal Tree*, Douglas Hay *et al* (New York: Pantheon Books, 1975) pp.40-49. See also Peter King. *Crime, justice, and discretion in England, 1740-1820* (Oxford: Oxford University Press, 2000) pp.297-333.

¹⁷ Douglas Hay "Property, Authority and the Criminal Law," pp.26-33.

¹⁸ Baker. *English Legal History*, pp.589-590.

Larkin continued to inquire into the case. In July of 1702, he wrote to the Board, requesting an update on the state of the appeal.¹⁹ There is no record of him ever receiving a response in the Board's papers. However, upon Churchill's return, communication between Popple and Newton resumed. On July 28th, 1702, Popple inquired as to whether Churchill had ever pleaded his pardon in accordance with his bail.²⁰ Two days later, Newton responded that he had not.²¹ Within a year of his 'unconditional' pardon, Nicholas Churchill was again arrested, this time on a technicality. The metropolitan authorities in London who wanted him back in prison had their way, thus illustrating the reach the English state could have in an era when imperial communications and intelligence relied a great deal on word of mouth and the willingness of colonial subjects to share information with royal representatives. Newly empowered colonial jurisdictions could now apprehend, and successfully try pirates without having their cases overturned for acting beyond their jurisdiction or authority. Churchill's seemingly successful petition also underlines an important facet of these vice-admiralty courts at the turn of the century. The experience of the Jamaica Act in the 1680s and frequency with which pirate trials were overturned by London in the seventeenth century encouraged colonial administrators to return to England any case which appeared problematic. As Churchill claimed to be the recipient of a pardon, the court of Barbados was not willing to execute him. In their view it was better to ship him and the problem off to the metropolis, and let London officials deal with the matter.

¹⁹ *C.S.P.C.A.W.* v.20 #771.

²⁰ *C.S.P.C.A.W.* v.20 #786.

²¹ *C.S.P.C.A.W.* v.20 #796.

While Nicholas Churchill's apprehension illustrates the moderately successful, if self-serving, application of legislature and policy, as well as the cooperation by colonial citizens through the willingness to share information with royal officials, this was no means the norm in this period. There is no record of what became of James How. With £1500 to his name, he acquired the lion's share of the hidden spoils – a fact that may have encouraged him to settle down and keep a low profile for his remaining days. Many successful pirates returned to the sea once their wealth had dried up in the taverns, gambling halls and brothels of port towns. However, if How did, in fact, resume a piratical career, no record has been found of his ever being caught. His disappearance illustrates the continued problems that the English state had in bringing clever criminals to justice when they fled to the wilds of America. Although one cannot be sure that those concerned members of the Board of Trade forgot about him, there is no further mention of him in their deliberations throughout the period examined here (1695 – 1713).

Moreover, attempts to curb piracy faced more serious limitations than vast and open spaces. The most serious impediment to effective control of the waterways was the ineffective control of colonial governments. Increasingly invested with their colonies' civil and military fiscal policy, the colonial legislatures and assemblies were becoming more powerful and more overtly resistant to metropolitan initiatives.²² The degree of complicity between governors, assemblies, smugglers, wreckers and sea-robbers varied from port to port. Nonetheless, it continued to be widespread in the period shortly after

²² This is perhaps best exemplified by the fact that the term "court party" was seen as a pejorative in colonies such as New York, implying submission to London's will. Jack Sosin. *English America and Imperial Inconstancy: The Rise of Provincial Autonomy, 1696-1715* (Lincoln: University of Nebraska Press, 1985) pp.14-22, and 151.

the passing of Acts 11 & 12 William III. The Board received regular complaints about the behavior of colonial officials, from both governors and private citizens.

In January, 1702, for example, a package was received from Benjamin Bennett, the Governor of Bermuda, outlining a list of complaints he had against Governor Haskett of Bahamas. According to Bennett, some of his ships had been raking salt on Turks Island when they were seized in a “pyrate-like” manner by Haskett’s ships. To prove his point, Bennett sent along numerous affidavits, intending to show how Haskett had tampered with juries, threatened to kill a witness if he did not speak specific accusations against the Bermudan ship, and even contrived to prevent trials of prizes when it suited him.²³ An equally damning letter of Haskett’s conduct and governance was received the following month. In it, Michael Cole, a London merchant enumerated his grievances with Haskett. Cole maintained that Haskett was a violent drunk who treated his citizens, officers and visitors to his island with insufferable brutality. From the moment of his arrival in the Bahamas, Cole was subject to arbitrary tariffs, forbidden to trade with anyone until the Governor claimed his share of Cole’s cargo, beaten with a cane and refused the right to leave the island until he paid Haskett an inordinate amount of port fees – an amount Cole refused to pay on principle. According to Cole, the Governor issued public beatings to anyone, including his own collections officer, John Graves who threatened his plots. Furthermore, Haskett had surrounded himself with some of the worst characters he could find; his Marshall, for one, was a former member of Captain Avery’s crew.²⁴

²³ *C.S.P.C.A.W.* v.20 #25.

²⁴ *C.S.P.C.A.W.* v.20 #120.

Another letter cited twenty-four charges against Haskett, ranging from the stifling of trade, influencing the judiciary, and terrorizing the people. The packet included a letter from Haskett to a neighboring French governor asking that they commence an illicit trade in Brazil wood, for their own benefit, affidavits from the French captain who delivered the letter, as well as that of Haskett's own captain who was ordered to deliver the goods. The implication of these letters was clear; the government of Bahamas had become so corrupt that it was imperative that the Governor be deposed.

In his defense, Haskett claimed that those whom he supposedly arbitrarily beat were in fact barbarous criminals engaged in piracy and plunder. Many of whom, he reminded London, had been associates of Captain Avery. Furthermore, Haskett claimed that part of his reputation was due to the quality of the colony's citizens, claiming that the inhabitants of the Bahamas were the sort who had been run out of every colony in which they had ever set foot. All of them, claimed Haskett, made their living through defrauding the Crown and there had not been one Governor before him who was not completely involved in smuggling, wrecking or piracy. He admitted to beating Cole with his cane, but denied ever having struck another sea captain. According to the Governor, Cole's testimony was dubious as he was suspected of association with a ring of privateers.²⁵

Apparently cornered, Haskett began offering more information on illegal practices in the Caribbean. For the last twelve years, he claimed, the piratical population of the Bahamas had been either directly or indirectly conniving with passing sloops to pilfer the

²⁵ *C.S.P.C.A.W.* v.20 #702.

seas and obtain goods under the label of “wrecks”.²⁶ This practice had become such an important economic activity that colonists had neglected to plant any crops that would bring wealth to the island. Generalizing to the whole of the West Indies, Haskett claimed that every Governor in that region, deprived of the necessary force to govern effectively, were either ruled by the masses, became co-conspirators, or all-together refused to rule. Pleading for his governorship, Haskett claimed to have a plan to solve the situation, which involved re-appropriation of the colony by the Crown.²⁷ From 1706, until the arrival of Woodes Rogers in 1718, the Bahamas Islands were effectively ruled by pirates. No attempt to take control of the islands could be effectively made during Queen Anne’s War.

Although the case of the Bahamas was an extreme example, the problem was that this type of complacent behavior by colonial officials appears to have been rampant in the late seventeenth and early eighteenth century. Bennett himself came under the scrutiny of the Board that same year. When Larkin arrived in Bermuda, he observed a number of inconsistencies that prompted a report on the rule of that colony. In August of 1702, the wandering commissioner’s letter reached the Board of Trade and Plantations. Larkin observed that the people of Bermuda were a fickle bunch, who often turned against any governor “daring to govern.” He found that there were more authorized privateers out of this government than any he had come across on his travels. While this observation alone would have been enough to raise suspicion, the fact that these private men of war were

²⁶ For the common practice of smuggling and wrecking in England in the eighteenth century see Cal Winslow. “Sussex Smugglers,” in *Albion’s Fatal Tree*. Douglas Hay, *et.al* (New York: Pantheon Books, 1975) p.28, or John G. Rule “Wrecking and Coastal Plunder,” *op.cit.*, pp.167-168.

²⁷ *C.S.P.C.A.W.* v.20 #720 and 746.

granted all the privileges of Royal Navy ships was insufferable. Moreover, the traditional salute from the fort's cannons as these ships came into port was rapidly depleting the island's supply of gunpowder. Equally problematic in Larkin's estimation was the law which stated that black slaves could not testify against whites. This law allowed a tobacco smuggling ring to develop on the island, whose method involved using slaves to cart tobacco off the island. By virtue of this law, the owners of the tobacco could never be caught.²⁸

Perhaps worried about what Larkin had included in his letter, Bennett sent a letter to the Board of Trade and Plantations at approximately the same time, seeking to address some of the possible accusations Larkin had made. Bennett accused Larkin of siding with the malcontents of the island and seeking to subvert the government. He accused Larkin of acting beyond his station, and did not recognize Larkin's authority in any matter that did not specifically bear on the matter of piracy. Assuming incorrectly that Larkin had accused him of all manner of corruption Bennett made excuses for his ties to privateers and smugglers – ties which were only revealed to the Board of Trade by virtue of Bennett's paranoia.²⁹ This proved the beginning of a bitter conflict between Bennett and Larkin.

No doubt seeking to be done with the trials on this island, in September of 1702, Larkin sought to establish the courts which would prosecute the pirates detained there.³⁰ The Bermudan Assembly, however, was not particularly interested in a speedy resolution to the problem of piracy. Despite the Governor's own request before the Assembly that

²⁸ *C.S.P.C.A.W.* v.20 #872.

²⁹ *C.S.P.C.A.W.* v.20 #929.

³⁰ *C.S.P.C.A.W.* v.20 #938.

the trials be handled rapidly, resistance to prosecution was immediate.³¹ In January of 1703, the Bermudan Assembly declared Larkin “an opposer to Governor and Government” and accused him of “scandalous, lewd and debauched practices.”³² Larkin was detained in the castle and his authority, as the Crown’s Royal Commissioner in matters of pirate trials, was no longer recognized by the rulers of the island.

With the resumption of hostilities between France and England in 1702, attitudes towards pirates and privateers returned to a more pragmatic and practical appraisals of their worth. Larkin boldly stated that most of the councilmen could not care less who ran the island “provided that piracy, and that which they call a Free-Trade were encouraged.” One member of the Bermudan Assembly, Anthony White, openly declared before Larkin and the Governor that “that he would not give consent to the hanging of any pyrate during the war.”³³

Detaining George Larkin led to a more pointed interest in the matter by the members of the Board. On April 29th, 1703, they sent a letter to the Queen, requesting that she instruct Bennett to release Larkin immediately so that he may proceed with the trial of pirates in the region. In the same letter they asked that she demand an account of Bennett’s “violent and arbitrary proceedings.”³⁴ On the same day, they sent another letter to the Governor directly, asking that he release Larkin and chastising him for falling out of communication with them. They also took a logical step for dealing with a disobedient and potentially corrupt royal representative; they gave him a raise in order to reduce

³¹ *C.S.P.C.A.W.* v.20 #943.

³² *Calendar of State Papers, Colonial; America and West Indies*, ed. Cecil Headlam, v.21 (Vaduz: Kraus Reprint Ltd., 1964), #136.

³³ *C.S.P.C.A.W.*, v.21 #503

³⁴ *C.S.P.C.A.W.*, v.21 #628.

incentives to accept bribes.³⁵ Bennett, however, was not finished attacking the man that had brought him to grief.

In August, he sent the Board a letter, and seventy-nine affidavits attesting to Larkin's scandalous behavior, and "barbarous reflections, affronts and abuses to me as a gentleman." Continuing to defend his actions, Bennett attempted to shift the blame to Larkin, accusing him of working with a certain Captain Jones to subvert the government. Further taking refuge in his honor as a member of the nobility, Bennett stated that he took Larkin's accusations as an insult to the Crown itself.³⁶ In a subsequent letter Bennett stated that he had released Larkin on April 27th and sent all documents relating to the trial of pirates to the Board.³⁷

Bennett's documents concerning pirate trials came under considerable review by the Board, which subsequently sent a highly critical letter to him. First, they found that although Bennett had tried to conceal the date on which his privateering commissions were issued, the year 1701 was clearly implied. In issuing a commission in peacetime, Bennett had gone against his original instructions. The Board stated that the same mistake had been made by his predecessor, Samuel Day, whom they had hoped he "would not have imitated." Second, his Commissions were too vague, stating only that they were against "pirates and the Queen's enemies at large." Such commissions were supposed to be extremely specific. The Board feared that privateers were likely to use broadly worded commissions as a legalistic way of turning pirate. Third, given the inconsistencies in his practices, they requested that he send a detailed list of all the

³⁵ *C.S.P.C.A.W.*, v.21 #630.

³⁶ *C.S.P.C.A.W.*, v.21 #1014.

³⁷ *C.S.P.C.A.W.*, v.21 #1158.

commissions he had ever granted, including the dates they were granted and the names of the recipients. Fourth, they requested a complete account of all prizes brought into his government, along with a report on how they were divided. Finally, they requested that he stop using the “public powder” to salute privateers since that honor was reserved exclusively for Royal Navy ships. To be fair, they reassured him that his accusations against Larkin were under review, although there is no record of the Board ever bringing Larkin to account for his actions.³⁸ However, Bennett continued to be chastised at every turn, his credibility had evidently evaporated with the Board of Trade. Despite attempts to justify his decisions in issuing letters of marque, the Board continued to restate the contravention his issuing represented “which no Order of Instructions you have received can any way justify.”³⁹ Bennett continued to govern, and the matter was apparently dropped.

Moreover, Bennett’s was hardly an extreme case. In 1702, Larkin had observed that pirate trials in New York had become the stages for factional rivalry in the colony. According to Larkin, New York’s governor was forced to play one faction against the other, should he wish to keep his post. That same year, the Earl of Nottingham submitted to the Board a list of seven councilmen seated in New York’s assembly, who were either smugglers or associates of pirates. Larkin related that pirates continued to go free in Barbados. Giving account of the *Sun* prize, the wandering commissioner told of how these pirates were allowed to go free in exchange for the slaves they were carrying.⁴⁰ In another instance, Maryland was lambasted in 1701 not only for favoring and harboring

³⁸ *C.S.P.C.A.W.*, v.21 #1313.

³⁹ *Calendar of State Papers, Colonial; America and West Indies*, ed. Cecil Headlam, v.22 (Vaduz: Kraus Reprint Ltd., 1964), #935.

⁴⁰ *C.S.P.C.A.W.* v.20 #344 and 794.

pirates, but in the same breath for harboring fugitives from Pennsylvania, arbitrarily creating laws, and for failing to maintain their colonial defenses. The House of Delegates of that colony vigorously challenged these complaints, as did all who were subject to these accusations.⁴¹

One “perfect receptacle of rogues and pirates” was Rhode Island. Accusations against the colony were some of the most specific and detailed amongst all complaints that made their way to the Board. In 1703, Governor Dudley of New England, an ardent hunter of pirates, wrote that two of the privateers he had commissioned had fled to Rhode Island after capturing their prize. When Dudley sent his collector to claim his government's rightful tenths of the prize, the latter was flat out refused. Following an investigation, Dudley discovered that one of the privateers he had commissioned had in fact been involved in a piratical raid near Carolina in November of 1702, a fact that may have accounted for the rogue's flight to Rhode Island.⁴² This practice was commonplace. An observer from New York, Roger Monpesson, wrote that rather than return to their commissioned ports, privateers frequently turned their prizes in at Rhode Island, a private colony, and thereby evaded their dues to the Crown. According to Monpesson, loyalty to the Crown and to the Church in the private and chartered colonies was a sham, and that judges were in greater danger under the colonial administration than the pirates they sought to prosecute.⁴³ Another commentator, Charles Cosgrove, wrote that Rhode Island was “guilty of harbouring and encouraging pyrates, detaining and protecting soldiers, seamen and servants, that desert and run away from other

⁴¹ *C.S.P.C.A.W.*, v.20 #203.

⁴² *C.S.P.C.A.W.*, v.20 #673.

⁴³ *C.S.P.C.A.W.* v.22 #436.

Governments under the Crown, and for using illegal Trade.”⁴⁴ In a subsequent letter, Dudley related more of Rhode Island’s abuses, noting that the prevalent attitude amongst its colonists was that anyone who brought money into the settlement should not be put in chains.⁴⁵

Piracy and privateering, however, were not normally the underlying points of complaint against governors and their colonies. More frequently, the letters spoke of the nature and distribution of power in any given colony. Accusations of association between pirates and governors appeared to be fair political fodder. The frequent use of this libel during this period makes it nearly impossible to distinguish between fact and slander and between colonial administrators who had connections with pirate crews and those who did not.

In the wake of the aborted Resumption Bill of 1701, Pennsylvania became the prime target for arguments in favor of taking proprietary colonies under Royal control.⁴⁶ One of the most vocal critics of Pennsylvania and other proprietary colonies was Robert Quarry, vice-admiralty judge of Pennsylvania and member of an Anglican missionary society. On March 26th, 1702, the Board received one of Quarry’s numerous reports detailing problems he had identified in the colonies. According Judge Quarry, problems could be identified in a number of colonies. The island of Providence, for example, due to “the corruption, rapine, and extortion of late Governors” had become little more than a shelter for pirates and a safe port for smugglers. Carolina had deposed several royal

⁴⁴ *C.S.P.C.A.W.* v.22 #701.

⁴⁵ *C.S.P.C.A.W.* v.22 #947.

⁴⁶ For details on the campaign for the resumption of proprietary charters see Steele. *Politics of Colonial Policy*. pp. 60-81, and also P. Bradley Nutting. “Parliament and Piracy, 1690-1701” in *The American Journal of Legal History*, v.22, (1978), pp.213-214.

officials, and replaced them with individuals involved in illegal trade. Furthermore, the colony was “nothing more than anarchy and confusion” and the “business” of their military exercises was “wholly to be drunk.” Pennsylvania, wrote Quarry, had become a haven for smugglers and attempts by William Penn to pass legislation to this effect had proven ineffective. Penn’s insistence on allowing the French and Native Americans to trade with him was seen by Quarry as a great opportunity for England’s enemies to level the colony. Quarry placed the blame squarely on the continued existence of proprietary governments:

But upon more mature consideration, I have good reason to conclude that the cause and foundation [of dissent] is to be found near home, I mean from the several neighbouring Charter Governments. And this may be easily demonstrated, if we consider that people under the proprietors do very seldom or never pay any taxes for the support of the Church or State; they entertain and encourage pirates; they carry on all manner of illegal trade, violate all the Acts made to prevent those evils; they affront the King, his Laws, Authority and Officers, and by all these disloyal and unjust actions grow rich and get estates, and have hitherto escaped punishment and just reward of their wickedness.⁴⁷

The Board offered Penn an opportunity to defend himself. On March 31st, they requested an answer from Penn concerning the accusations of colonial mismanagement.⁴⁸ The following week, Popple wrote to Penn, saying that since he was in London, he or his agent should come before the Board and address the issue of “piracy encouraged and illegal trade practised.”⁴⁹ Three days later, another memorial was issued by Quarry, this time on behalf of the Order of the Representatives of the Lower Counties. The memorial claimed that Pennsylvania was vulnerable to attacks from both sea and land and accused

⁴⁷ *C.S.P.C.A.W.* v.20 #260.

⁴⁸ *C.S.P.C.A.W.* v.20 #282.

⁴⁹ *C.S.P.C.A.W.* v.20 #299.

Penn of arbitrary rule. Penn's rule was held responsible for the mismanagement, and requested that the Lower Counties be detached from Pennsylvania and taken under the direct governance of the Crown.⁵⁰

The polemic against Penn's proprietary colony was relentless. In May, 1702, William Dockwra and Peter Sonmans wrote a list of objections against Colonel Andrew Hamilton, Penn's deputy Governor in Pennsylvania. Aside from the standard slander of arbitrary government, the complaints included the accusation that Hamilton had been accepting bribes from pirates in exchange for refuge. Most notably, the complainants listed Merick and Elson, formerly pirates with Captain Avery.⁵¹ In response to these accusations, the proprietors of East and West Jersey came to Hamilton's defense. In their estimation, Hamilton had been an exceptionally fit deputy Governor, and had actually assisted in the trial of pirates. As was within their discretion, they threw out accusations of Hamilton's involvement in smuggling as "groundless."⁵² The Board, however, decided to side with Dockwra and Sonmans; on Jun 26th, 1702, they wrote to Queen Anne, recommending that Hamilton be deposed since he had not come to power through Royal assent in the first place, and secondly, that he had taken measures that encouraged piracy in the region.⁵³

Meanwhile, Quarry and Penn continued to exchange words. In a letter to Popple, the proprietor of Pennsylvania wrote that Quarry's complaints against him stemmed from an incident when Penn had refused the judge a share of a condemned pirate's spoils on

⁵⁰ *C.S.P.C.A.W.* v.20 #305.

⁵¹ *C.S.P.C.A.W.* v.20 #533.

⁵² *C.S.P.C.A.W.* v.20 #567.

⁵³ *C.S.P.C.A.W.* v.20 #664.

the basis that the goods were to be held until a proper authority could deal with them.⁵⁴ Penn argued that since Quarry was not formally trained in the Civil Law, he did not have the qualifications to divide a prize according to the procedures Admiralty courts. The conflict had escalated to personal attacks. Quarry responded that although he did not have much knowledge of the Civil Law, neither did any of “Penn’s creatures.” Quarry openly requested that if the Queen could think of anyone else more skilled to serve as vice-admiralty judge in the colony, that she should do so. Furthermore, Quarry stated that if he, as a merchant by training, was unfit to sit as a Judge, then Penn, as a layman, was unfit to “pose as a Preacher.” As an honest merchant familiar with the methods employed by smugglers, Quarry maintained that he was ideally suited for the task at hand. Further in his letter, Quarry accused Penn of being involved in a conspiracy, along with other gentlemen of the colony, which sought to strip ships of their cargo under false pretenses in exchange for money.⁵⁵

A significant source of this distrust came from religious differences, or what J.C.D.C. Clark calls “the Anglican nightmare.”⁵⁶ Quarry was a devout Anglican, and Penn an empowered Nonconformist. While the fight against chartered governments had not taken an exclusively religious undertone, the ideological divide did provide some of the motivation for distrust.⁵⁷ In September, 1702, for example, the Earl of Clarendon

⁵⁴ *C.S.P.C.A.W.* v.20 #612.

⁵⁵ *C.S.P.C.A.W.* v.20 #648.

⁵⁶ Mary K. Geiter, ‘Penn, William (1644–1718)’, *Oxford Dictionary of National Biography*, (Oxford University Press, Sept 2004; online edn, Jan 2007).

⁵⁷ For the role of religion in the formation of American thought see Jonathan Charles Douglas Clark. *The language of liberty, 1660-1832: political discourse and social dynamics in the Anglo-American world* (Cambridge: Cambridge University Press, 1993), pp.141-217. and Jon Butler. *Becoming America; the Revolution Before 1776* (Cambridge, Mass: Harvard University Press, 2000),pp.185-190.

wrote to the Earl of Nottingham stating that one Colonel Jeremiah Basse had apprehensions about recently appointed representatives in the Council of New Jersey on the basis that they were Quakers, with one in particular being in Basse's experience a facilitator of pirates and a trustee of their money.⁵⁸ As the Nonconformist issue came further to the fore, the arguments made by polemicists such as Quarry began to involve more pointed accusations towards the empowerment of Quakers as a source of the problem. These issues resonated in England as well, where cries of "Church in Danger" invigorated many during the "rage of party."⁵⁹

Having accused Penn of being a corrupt and arbitrary Governor, Quarry wrote in 1704 that Penn's government was in fact too liberal, that its assembly was allowed to convene at will, that it refused to pay for its own defense, and that it continued to involve itself in illegal trade with New York. Furthermore, he said, that the division of power in the colony unjustly favored Quakers, and recommended dismantling the colony in a way that would ruin the Society of Friends in Pennsylvania.⁶⁰ In a subsequent letter, he would criticize the absence of oaths in Pennsylvanian proceedings.⁶¹

Despite these accusations, Quarry's efforts came to naught. The most successful attempt at Resumption had died in the House of Lords in 1701 in the midst of the impeachment crisis. Subsequent attempts to slander Penn and win London over to the

⁵⁸ *C.S.P.C.A.W.* v.20 #928.

⁵⁹ See J.E. Plumb. *The Growth of Political Stability in England, 1675-1725* (London: Macmillan, 1967), pp.129-158. Tim Harris. *Politics under the later Stuarts: party conflict in a divided society, 1660-1715* (London: Longman, 1993), pp.147-207. Geoffrey S. Holmes. *British politics in the age of Anne* (Toronto: Macmillan, 1967) and Justin Champion. "Philosophy, state and religion: languages of political theory in early modern England," *Parliamentary History*, 14 (1995), pp. 187-98.

⁶⁰ *C.S.P.C.A.W.* v.21 #353.

⁶¹ Quakers, in accordance with their beliefs, refuse to take oaths. *C.S.P.C.A.W.* v.21 #605.

cause of Resumption did not have the weight of these previous ones.⁶² This conflict does illuminate, however, a significant difference in the way various factions perceived effective government. Supported by the Board of Trade, those who favored Crown controlled colonies did so for a set of coherent reasons; the perception that proprietary colonies were less vigorous in combating smuggling and piracy, that they did not dispense justice well, and that it was far too easy for colonists to disappear in them.⁶³ While religious differences were apparent, and the colonies with a significant number of Quakers, came under more pointed attack, the majority of arguments against them were decidedly secular, and related to the normalization of trade. Chartered colonies continued to be hotbeds of smuggling and piracy, a fact and circumstance which an increasingly mercantile empire could no longer abide.

With the passing of the *Act for the more effectual suppression of piracy*, Parliament had decentralized the trial of sea-robbers to the colonies. While theoretically empowered to enforce England's evolving commercial attitudes, the colonists were not always willing participants in attempts to rationalize trade. For them, piracy served an important economic function. The division of prizes and the hauls of successful piratical raids meant a sudden influx of capital into their port towns that was far more tangible to them than the complex mercantilist trade networks elaborated in London. It is in this way that piracy prospered – not only as a violent activity, but as an economic one. Pirates and privateers supplemented imperial shipping, offering colonists an illicit carrying trade that

⁶² The impeachment crisis refers to the near impeachment of three seated members of Parliament, also members of the *Junto*, for reasons not related to the Kidd affair, but drummed up in the wake of it by their Tory adversaries. Steele, *Politics of Colonial Policy*, pp.71, 79-81.

⁶³ *C.S.P.C.A.W.* v.20 #128.

made their lives on the empire's periphery more affordable. The reports of colonial administrators in this period underline how widespread this problem was. Piracy was intrinsically tied to smuggling and to poor government policy. Beyond this, however, it was becoming more and more obvious that the complicity of governors themselves was contributing to the problem. After 1705, however, the association of privateering with piracy became more common. While privateers had never really been seen as a respectable lot, their actions during Queen Anne's War often undermined their place in the strategic considerations of London's decision makers.

Chapter 4

British Experiences with Privateers toward the End of Queen Anne's War, 1705 - 1713

A marked difference in metropolitan and the colonial rulers' perceptions of privateering enterprises became all too apparent toward the end of Queen Anne's War. While Governors were bound to obey the dictates of the Crown and the instructions communicated to them by officials in Whitehall, the colonial elites were often all too aware of the limitations of state control on the American seaboard, the periphery of empire. Meanwhile, the Board of Trade and Plantations continued to recommend legalistic solutions to the depredations of sea robbers. These initiatives were rooted in the desire to streamline trade and soothe diplomatic relations with Britain's allies in order to gain a decisive advantage over France. Their generalized recommendations often involved solutions that were all together impractical for the various colonial situations - after all, Virginia's problems were not those of New York, nor was Jamaica's miserable condition that of Antigua either.

The correspondence of colonial governors, members of the Board, and other London elites reveals a transmutating discourse on privateers between 1705 and 1713. Although for a time governors continued to see, and appreciate, the uses of privateers, these enterprising maritime mercenaries came to be regarded, to a large extent as a very real menace. That said, the particulars of what was menacing to rulers on both sides of the Atlantic were, at times, significantly different. European officials were all too aware that war would entail some loss of territory, and as a result paid far more attention to the behavior of governors and privateers and their measure of attentiveness in following the

rules. This is not to say that the Board was indifferent to the Crown's overseas possessions, but to merely emphasize that, with few exceptions, the Crown's focus was elsewhere. In contrast, representatives of the Crown had to contend with the problems in their immediate geographic domains, and violent assaults by enemy privateers on their governments had consequences that affected them and their colonists directly.

While both colonial officials and London administrators recognized that the very mariners who manned the ships of England, France and Spain were intrinsic to ensuring stability in the empire, again, different approaches to ensure their sailors' obedience were sought in the colonies than in the City. The subject of pardons, impressments and the circumstances that encouraged sailors to go rogue were by no means agreed upon by the various governors of the Americas or the administrators in London. Furthermore, there was an obvious opinion in the Caribbean colonies that most attempts to control their islands would be futile without real naval presence to ensure that control. Throughout the Americas, and particularly by American colonial governors, privateers came to be associated with weak government and an uncontrollable black market economy. As elites on both sides of the Atlantic attempted to protect their possessions against these increasingly violent, state-sponsored rogues, contrasting solutions were adopted. For the Board in London, legislative solutions enforced through vice-admiralty courts and the diligent enforcement of the powers vested in governors were often encouraged. In the colonies, however, where they had to actually contend with insufficient resources, corrupt officials, factious assemblies and regular attacks by foreign privateers, governors and colonists alike often preferred the very real, reassuring presence of a Royal Navy ship of the line.

Ironically, and aside from the incentive of reducing the cost of maintaining a navy, privateers offered other significant benefits to those colonial officials who would offer them a letter of marque. Privateers were the favored method of both defensive and offensive warfare for a number of Caribbean governors. As early as 1702, Lieutenant Governor of Jamaica, Peter Beckford, while stressing the need to master the Caribbean, decided that he would adopt a policy of issuing privateering commissions, all the while remitting the Crown's tenth in order to ensure that sailors stayed on the island.¹ Later in the war, in February of 1709, Governor Handasyde of Jamaica used his privateers to support a Dutch fleet's plan to intercept two French men of war escorting a number of merchant ships to the West Indies from France.² On islands such as Jamaica, where economic activity depended on the ocean and on the presence of skilled seafarers, the activities of privateers occasionally inspired a sense of admiration. Handasyde's successor, Governor Hamilton, communicated with the Board that despite the glaring weaknesses of Jamaica's defenses, an English privateer, though outgunned and outnumbered, had gallantly brought into harbor a vastly superior French vessel as a prize.³

In addition to providing a boost to a colony's defenses, privateers were an excellent means of gathering intelligence on enemy movements. Occasionally this intelligence came in the form of documents. In October of 1708, for example, Handasyde informed the Board that one of his privateers had obtained a copy of a

¹ *Calendar of State Papers, Colonial; America and West Indies (C.S.P.C.A.W.)*, ed. Cecil Headlam, v.20 (Vaduz: Kraus Reprint Ltd., 1964,) #743.

² *Calendar of State Papers, Colonial; America and West Indies (C.S.P.C.A.W.)*, ed. Cecil Headlam, v.24 (Vaduz: Kraus Reprint Ltd., 1964,) #339.

³ *Calendar of State Papers, Colonial; America and West Indies (C.S.P.C.A.W.)*, ed. Cecil Headlam, v.26 (Vaduz: Kraus Reprint Ltd., 1964,) #82.

contract between the King of France, the Duke of Anjou and the Council of Old Spain, whereby the French would take over the carrying trade for Spanish goods into the West Indies.⁴ The following year, Handasyde sent to London a Spanish document, brought in by his privateers, that contained a list of every Spanish vessel taken in the Northern Caribbean. Documents, however, were not nearly as useful as human intelligence, as some privateers demonstrated flexible loyalties. In December of 1711, Governor Vane, at Annapolis Royal, informed the Board that his ships had captured a French privateer who offered to work for Britain. This man, said Vane, possessed a thorough knowledge of the Nova Scotia peninsula that would prove critical to convincing the French and their Native allies to surrender.⁵

Despite these advantages, however, privateers whether French, Spanish or even British were often viewed as a distasteful lot by colonial officials and often deemed an increasing nuisance for administrators in London. Pirates and privateers menaced the colonies through regular attacks spanning the entirety of the Atlantic seaboard, cut off trade and communications with the metropole and undermined government legitimacy by bending the rules and demonstrating overt complicity with some governors. In fact, the very rumor of a privateer raid on a colony was cause for alarm in almost all colonies.

Assaults by privateers on British possessions were primarily courtesy of their long term rival and adversary, the French.⁶ For 'British' colonial subjects, the French also

⁴ *C.S.P.C.A.W.* v.24, #174.

⁵ *C.S.P.C.A.W.*, v.26, #216.

⁶ See Jeremy Black. *Natural and Necessary Enemies: Anglo-French Relations in the Eighteenth Century* (Athens: University of Georgia Press, 1987) or Steven Pincus. *Protestantism and Patriotism: Ideologies and the Making of English Foreign Policy, 1650-1688* (Cambridge: Cambridge University Press, 1996).

proved a constant annoyance. On September 9th, 1708, Lieutenant Governor Jennings informed the Board that raids from these marauders were a daily occurrence and that only recently, a fourth rate ship had been “chased from its anchors” by a French privateer.⁷ Similarly, in February of 1710, Lieutenant Governor Anthony Hodges of Montserrat related that the island had just repelled an assault by some 600 to 700 French privateers out of Martinique. Hodges did not lament this particular raid, but rather noted that the persistence of these assaults was “a great fatigue to ye inhabitants” and that the permanent stationing of a Royal Navy man of war was necessary.⁸ Handasyde reiterated the same frustration days later.⁹ From the perspective of London, two particular privateering activities solicited regular correspondence; the harassment of trade, especially by English privateers and the capture by their enemy, of packet boats used to communicate with the colonies.

On August 13th, 1708, the Board wrote to Handasyde that English privateers were one of the causes of his island’s declining state of affairs. Instead of a sympathetic ear Handasyde was politely advised to reign in his privateers if he wanted any form of trade with the Spanish.¹⁰ Lamenting the situation in the colonies, one Jeremy Dummer wrote to William Pople, Jr. in August of 1709 saying that “the trade on ye coast is totally

⁷ The term “fourth rate” is in relation to the British standard of designation for ships of the line, of war ships. In this system, there are six rankings, with the sixth being the smallest and first being the pinnacle of naval engineering. A fourth rate ship would be amongst the biggest that would be found in the colonies. First and second rate ships rarely left the English Channel. On this, see N.A.M. Rodger. *The Wooden World: An Anatomy of the Georgian Navy* (Glasgow: Fontana Press, 1988). C.S.P.C.A.W. v.24, #137.

⁸ *Calendar of State Papers, Colonial; America and West Indies* (C.S.P.C.A.W.) ed. Cecil Headlam, v.25 (Vaduz: Kraus Reprint Ltd., 1964,) #105.

⁹ C.S.P.C.A.W., v.25, #133.

¹⁰ C.S.P.C.A.W., v.24, #87.

spoiled by our privateers.”¹¹ The possibility of a paralyzed trade in wartime was a dangerous prospect for an empire that sought to dominate the Caribbean. However, it was more than just assaults that menaced trading networks; said Dummer, since the actions of privateers in that region “have spoiled the honest trader” as regular trade proved to be of marginal value compared to what could be made through smuggling.¹² Equally threatening were incidents of interrupted communication.

In July of 1708, Dummer communicated with Popple Jr. that the Antigua packet boat was 120 days “out and home.” The ship was feared lost. According to Dummer, Spanish privateers had been cutting off communications in the West Indies for some time.¹³ A few months later, the worst was confirmed; the Antigua packet boat had in fact been taken by French privateers and all information had been lost.¹⁴ A similar incident was reported by Governor Crowe of Barbados in March of 1710.¹⁵ Aside from captures, however, occasionally information was lost to prevent it from falling into enemy hands. In August of 1708, Colonel Romer informed the Board that he could not send the requested papers for the state of defenses in New England as when he was taken by French privateers he had flung nine years worth of intelligence overboard to prevent it from falling into enemy hands.¹⁶ In response to this menace to crucial lines of communication, colonial officials in New York and New Hampshire began to entertain the possibility of shipping all regional communication from one port, and having it

¹¹ *C.S.P.C.A.W.*, v.24, #683.

¹² *C.S.P.C.A.W.*, v.24, #679.

¹³ *C.S.P.C.A.W.*, v.24, #69.

¹⁴ *C.S.P.C.A.W.*, v.24, #255.

¹⁵ *C.S.P.C.A.W.*, v.25, #150.

¹⁶ *C.S.P.C.A.W.*, v.24, #123.

escorted by war ships.¹⁷ Despite these efforts, however, occasionally nothing could be done to prevent information from falling into the hands of the enemy.

Those flexible privateering loyalties which helped British officials obtain intelligence also proved to be an Achilles heel for colonial subjects of Britain as one incident in Virginia reveals. In March of 1709, Lt Governor Jennings sent word that he had been informed, by means of contacts with French privateers, that they had designs of attacking Virginia in the spring, hoping to make a killing in slaves, plate and “other goods.” What worried Jennings, more than the assault itself, was that fact that in 1707, a number of “renegados” fled to Martinique and in this manner the French acquired a good idea of the men of best estate in the colony. In Jennings’ estimation, this defection accounted for the success privateers had in their recent raids.¹⁸

Perhaps more terrifying than the raids themselves, was the cruelty associated with them. In October of 1708, Governor Bennett sent to the Board of Trade and Plantations three depositions; the first two by Elizabeth Stroude and Samuel Harvey relating to the beating and torturing of women at Exuma and Eleuthera in the Bahamas in July of 1708 in order to cajole the location of their “secret wealth.”¹⁹ The third deposition was the horrifying ordeal of Captain Edward Holmes of Bermuda at the hands of Captain Martel and his crew.

Martell (a Frenchman) with a canoe and armed men and his Lieutenant in another canoe likewise came on board in a violent manner, and took hold of deponent’s wife and stript her, and the Quarter-Master presented a loaded pistoll att her breast, thereby to force her to discover

¹⁷ *C.S.P.C.A.W.*, v.24, #10 and #19.

¹⁸ *C.S.P.C.A.W.*, v.24, #421.

¹⁹ *C.S.P.C.A.W.*, v.24, #176.

deponent's wealth, and searcht her very haire of her head, and threatned to fling her overboard. Then Capt. Martell ordered them to bee carried on shore and there tyed deponent's wife fast to a tree, and one of his men struck her with a sword, deponent being then bound on shore. Next morning hee was carried on board his own vessell and his hands seized to the mast, and the quarter-master belonging to Capt. Martell with his naked cutlass beat him on his back, as was guessed, 500 blows, untill all thought him dead, the quarter-master still continueing to push the deponent in the face with the point of his sword upon every groane hee made. And then deponent comeing to himself Capt. Martell's gang lighted eight peeces of match about 3 inches long and tyed them betweene his fingers and burnt them about half an hour by the glass, to force him to confess his wealth, and afterwards they tyed him with his back to the scuppers and brought lighted matches to tye his toes, and swore they would burne his privy members...²⁰

After a night and a day of torture, Holmes confessed where his private possessions were hidden, and was marooned "8 leagues" away from Bermuda. Such stories circulated throughout the American colonies, and played an important part in shaping the monstrous reputation pirates and privateers were acquiring. Of course, the domain of monstrous reputations was not the only attributable to the French. In October of 1712, Governor Hamilton wrote that he had received a report of "several disorders and crueltys" committed by English privateers against a Spanish merchant. For many colonials, this reputation transcended nation, and was more associated with the nature of privateers. Wrote De Costebelle, a French prisoner in Newfoundland, "I am sure you have no share in what your corsairs do contrary to the laws of humanity, when their brutality falls upon women and children."²¹ The reputation of privateers and pirates was such that the mere rumor of an attack was enough to make governors communicate their concerns with the Board. Most often, this was because these rumors, in wartime, proved to be true.

²⁰ *C.S.P.C.A.W.*, v.24, #472.

²¹ *C.S.P.C.A.W.*, v.24, #195.

For example, in December of 1704, Handasyde related information to the Board that the French were supposedly mounting an assault upon Jamaica.²² The following year, Handasyde wrote that Jamaica had been pounded by two months of perpetual harassment by French and Spanish privateers, and that there was general alarm on the island arising from the rumor of a joint French and Spanish raid out of Vera Cruz.²³ Similarly, Dummer related to the Board in January of 1710 that the *Sophia* packet boat had brought in a number of letters concerning “the multitude of privateers upon and about the Leeward Islands, by whom [colonial subjects] fear every day to be plundrd.”²⁴ The depravity of pirates and privateering crews being common knowledge, colonists paid a great deal of attention to the positioning of marauding vessels.²⁵

Despite their reputation, there is no documented evidence in the Board of Trade and Plantations’ papers to suggest that either the central authorities in London, or the colonial elites ever considered doing away with privateering enterprises. For colonists, maritime banditry, especially when somewhat legal, was a traditional way of doing business in a part of the world where the state had suffered from over a century of limited reach. For London’s colonial administrators, increasingly interested in colonial affairs since the end of the seventeenth century, innovative and effective legislation would ideally root out the worst abuses of private maritime violence and allow the Augustan state to continue to wage war on the cheap.

²² *C.S.P.C.A.W.*, v.24, #227.

²³ *C.S.P.C.A.W.*, v.24, #912.

²⁴ *C.A.S.P.C.A.W.*, v.25, #84.

²⁵ Further examples of colonists’ interest in the positioning of privateers range from the very vague mention of rogue vessels being present in an area (*C.A.S.P.C.A.W.*, v.24, #870) to precise intelligence as to positioning, number of vessels, and possibility of reinforcements (*C.A.S.P.C.A.W.*, v.25, #284.)

Privateers operated within a context of weak government and lawlessness which rendered proper colonial administration in some centers next to impossible. This lawlessness was often aggravated by efforts at establishing control; a fact some American governors knew all too well. In 1704, then Lieutenant Governor of Jamaica, Handasyde was informed by the Board that the Act *for encouraging privateers and other seafaring men and to prevent impressing*, passed in the Jamaican assembly and given gubernatorial assent, had been repealed by the Crown following due consideration. In the Board's estimation, the Act was prejudicial to Royal prerogative. The motivation for the repeal was that the Act would "endanger H.M. ships of war in exigencies where seamen may be wanted." New instructions were given that impressment would continue towards all able men in the Plantations, despite it being "to the ruin of some, the terrifying of others, and the great diminution of the strength of the Island." The Board, recognizing the need to maintain some discretionary power with the Governor, assured him that no impressment would take place within sight of his plantation without his authorization.²⁶

Despite these orders from the metropolis, impressment continued to be resisted by the very men that were charged with ensuring its implementation. In March 1710, a petition was received from a group of naval officers complaining about the restraint many captains showed in pressing men in the colonies. According to the logic of these military elites, this reluctance resulted in men deserting colonial centers, thus accounting for the lack of men available for service. The petitioners observed that the problem was tied to disease. After long voyages across the Atlantic, many commanders were reluctant to

²⁶ *Calendar of State Papers, Colonial; America and West Indies (C.S.P.C.A.W.)* ed. Cecil Headlam, v.22 (Vaduz: Kraus Reprint Ltd., 1964,) #138.

resupply their vessels from the merchantmen they had just convoyed.²⁷ Such metropolitan impositions frequently met with disobedience in the plantations.

In 1708, in an effort to normalize the activities of privateers, Parliament passed the *Act for the encouragement of trade to America*. While the Act allowed for privateers and Royal Navy ships to claim the entirety of their prizes, and gave vice-admirals broader powers in issuing commissions to privateers, the Act attempted to regulate almost every aspect of the taking of prizes. Furthermore, it held that although ships could be brought into colonial ports and sold there, the duties would be the same as if they had been brought into Great Britain. In the case of an illegitimately seized vessel, double the value of the prize would be paid by the captor to the owner, should the owner be found.²⁸ In Jamaica, this caused an immediate stir, as the bureaucracy established to regulate the behavior of privateers while encouraging their increase came to alienate them from their primary motivation – profit.

In November of 1708, the Board received word from Handasyde that a ship had recently been taken by a privateer without license. In accordance with his rights under this new legislation, the Naval Officer of Jamaica claimed the whole of the prize. According to Handasyde, this strict legality was a powerful encouragement for privateers to turn pirate.²⁹ Furthermore, increasing bureaucracy in colonial centers had adverse effects on the methods used by privateers. When a prize could not be legitimately sold in port, privateers would often burn it. Handasyde related the case of a privateer who had taken five prizes at sea, of which, only one was brought in to harbor, and the other four

²⁷ *C.S.P.C.A.W.* v.25, #172.

²⁸ Great Britain. *An Act for the encouragement of the trade to America* (London, 1708)

²⁹ *C.S.P.C.A.W.*, v.24, #202 and #473.

were burnt at sea.³⁰ Said Handasyde, it had become common practice amongst privateers to sink their vessels after plunder and to maroon the survivors in order to avoid the Admiralty's duties. Furthermore, some privateers only brought in the hostages after a prize had been condemned in another port.³¹ Even in colonies reputed for their 'flexible' enforcement of statute, such as Rhode Island, Governors observed the increasing tendency of privateers to simply destroy their prizes for fear of losing their profit to what they deemed were exorbitant duties.³² One colonial observer, William Bignall, wrote to Jeremy Dummer that privateering was the only activity bringing any money into the colonies. As such, the devious efforts of privateers to circumvent the law were often tolerated, even though this increased propensity to destroy property was cause for alarm.³³

For these seafarers, the imposition of the Law in a sphere that had been previously lax was seen as confrontational. Handasyde related again in 1710 that efforts by the Collector of Foreign Duties to claim the proper amounts from goods brought in to Jamaica by privateers had led to:

the great desertion of our seafaring men, in whom consisted our best defence, and we have reason to fear, those which remain will continue to desert, unless your Majesty extend your bountiful relief to us in what we humbly conceive to be the cause of our misfortunes, etc. which we take to be the demand of duties upon prize goods by colour of the Act *for encouraging trade to America*, most of which very much exceed the intrinsick value of the said goods themselves, to the unspeakable

³⁰ *C.S.P.C.A.W.*, v.24, #142.

³¹ *C.S.P.C.A.W.*, v.24, #202.

³² *C.S.P.C.A.W.*, v.24, #230.

³³ *C.S.P.C.A.W.*, v.24, #484.

prejudice of the merchants and others concern'd in fitting out private ships of war.³⁴

Handasyde's letter prompted a reflection by the Board on the value of these duties within Jamaica's context. First, the Board commented on the fact that ships brought into the colonies were charged the same duties as though they were brought into England. In essence, admitted the members, the goods were taxed twice. Second, the Board's members observed that the Jamaican Collector had resolved to scrupulously enforce this rule. Third, they paralleled the duties imposed by the metropolitan Act with the one imposed by the Jamaican Assembly, which when compounded "do frequently exceed the value of the said prize goods as sold there, and where they do not exceed such value, yet what remains to the captors after the deduction of the said duties is so small that privateers always make losing voyages." The Board gave examples of three such voyages; the first one losing over £1900, the second making scarcely £150, and the third bringing in a pittance of £13. Fourth, the Board commented on the number of seamen in Jamaica. Of the 3000 registered seamen in that place, lately there were not enough to man two ships when a joint French and Spanish fleet sailed past. It was common knowledge that at least 900 of these registered seamen had deserted to the Spanish, and that the governor had issued a pardon in the hopes that they would return. The sailors responded that "that their crimes did not keep them from Jamaica, but the want of means to subsist there when they should return." Finally, the Council resolved that the duties

³⁴ *C.S.P.C.A.W.* v.25, #170.

would have to stay in place. To compensate for Jamaica's pitiful condition, it resolved to ensure that a few sturdy Royal Navy ships be sent to secure the island.³⁵

Staffing Jamaica had become extremely difficult. In October of 1709, Handasyde had informed the Board that well over 300 pirates had assembled on the coast of Cartagena, and were poised to attack. Already, the French and the Spanish had approached these men with an offer of pardon in exchange for their services aboard the respective nations' ships. Apparently, they refused to aid both Crowns. Based on the information obtained from a prisoner – that the pirates would return to serve the British in exchange for a pardon – Handasyde offered them one. Handasyde explained; “I wish with all my heart that some method could be taken to prevent their growth, least they come to soe great a number that may not easily be overcome, there being severall resolute persons of noe fortune in these parts which will be ready to joyne with anything, tho' ye gallows were to be their reward.”³⁶

The Board was concerned with the decision, expressing reservations over the pardon of so many pirates. In April of 1710, they requested a copy of Handasyde's pardon for their consideration.³⁷ By June, Handasyde was fed up. He sent the Board a polite letter, thanking them for sending him 78 or 79 “of the saddest mortalls that ever was sent out of the Kingdom, being of all nations and languages, and as many religions.” The Governor claimed that his “honour and reputation will very much suffer” should an enemy attack and this ragtag regiment be all he had to show by means of defense. Handasyde informed the Board that his patience as governor of Jamaica “had opportunity

³⁵ *C.S.P.C.A.W.*, v. 25, #239.

³⁶ *C.S.P.C.A.W.*, v.24, #785.

³⁷ *C.S.P.C.A.W.*, v.25, #182.

enough for tryall” and that he wanted nothing more than to resign his post. He would gladly have tried pirates (though those still present on the island, said the Governor, were “power[poor] sorry fellows”), but the island could not afford the cost of it, much less actually pay its governor and its sailors. In light of this miserable state of affairs, it was impossible to find any witness for a pirate trial. The pardon was the only practical method at his disposal. In July, an increasingly frustrated Handasyde defiantly wrote the Board that the pardon was well within his powers. He claimed that 100 pirates had given themselves up, gone aboard privateers, starved or dispersed.³⁸ Although sympathetic to Jamaica’s plight, for the Board this was excellent news.³⁹ The pardon offered by Handasyde was deemed a clever way of dispersing an emerging concentration of rogues in the region, whether they lived or not was of limited strategic interest to officials in London. For Handasyde, however, this was terrible. He had hoped his pardon would help provide some sailors for the ships attendant to his island. In hindsight, Handasyde appears to have been a governor sympathetic to the realities of the sailors and other inhabitants of the Caribbean and his letters often betrayed his tendency towards leniency.

In the face of impractical legislation, colonial elites often adopted solutions that would obtain immediate results. As the case of Handasyde’s proclamation of pardon illustrates, these solutions, while not initiated by the central state, occasionally had results that London elites could approve. Towards the end of the war, Governor Lowther of Barbados informed the Board that his ships had taken forty-eight privateers. The Governor of Martinique promptly requested a prisoner exchange with Lowther, but the latter refused. His motivation was based on a fairly clever tactic; numerical supremacy.

³⁸ *C.S.P.C.A.W.*, v.25, #313.

³⁹ *C.S.P.C.A.W.*, v.25, #398.

Although the British had lost more prisoners to the French than they had taken, Lowther believed that the French needed those forty-eight men more than the British needed their own prisoners. In the absence of a colonial “cartell” of prisoners, the prisoners would be exchanged in Europe, as such, it would be excessively difficult for these sailors to make their way back to the West Indies and resume assaults on British colonies. Said Lowther; “the people of Martinique are the very dregs and refuse of the French Nation, and that they intirely subsist by piracy and privateering, and that they lose nothing when they fall into our hands but some armes and ammunition.” If Lowther exchanged the prisoners with the French at Martinique, he sincerely believed they would be back to harass shipping within a day.⁴⁰

Privateers were intimately tied to the rule of Caribbean governors and in some cases the Governors’ character was as questionable as that of the sea bandits. In November of 1708, a letter Governor Daniel Parke of Antigua was read before the Board. Parke informed them that in the face of mounting complaints from England’s allies about the behavior of their privateers, and, in order to stop the harassment of allied trading, he had decided to sell off all his privateers. Suggested the Governor, the allies of Britain had nothing more to worry about from them.⁴¹ The very next day another letter from Parke was read in council. This time, Parke stated that since he had sold off his privateers, he could no longer guarantee the safe passage of Danish shipping in the area. He requested that the Crown send a Royal Navy ship to protect its allies’ trade – an

⁴⁰ *C.S.P.C.A.W.*, v.26, #77.

⁴¹ *C.S.P.C.A.W.*, v.24, #192.

obvious ruse.⁴² For colonial officials, the physical presence of a Crown ship was a godsend.

As early as 1702, Robert Quarry wrote from Virginia that the colony's land defenses were either non-existent or in disrepair at critical points along the coast. A fort, however, was not Quarry's proposed solution as the rivers of the country were too wide, and munitions too easily seized by insurgents. Instead, Quarry recommended the permanent stationing of five or six ships to cruise the coast in time of war – thus providing a powerful deterrent to sea bandits and smugglers.⁴³ Virginian officials remained steadfast in their need for a permanent fleet on their coast for the entirety of the war. In 1708, the Board of Trade and Plantations informed Lieutenant Governor Jennings that a temporary convoy would be offered to help protect the coast.⁴⁴ This was insufficient for colonists who, as previously mentioned, faced daily raids from French privateers. In March, 1710, Jennings informed the Board that he was still awaiting a promised ship, the *Enterprise*, but had yet to hear from the sloop. Overstepping his authority, Jennings fitted out and commissioned a Royal Navy ship himself.⁴⁵ When the *Enterprise* finally arrived in Virginia the following month, Jennings was immediately apprehensive about using it, as he discovered it was on the account of private individuals.⁴⁶ Later that summer, another vessel, the *Triton's* prize ship was sent to aid the *Enterprise* as in cruising the shoals and flats of Chesapeake Bay.⁴⁷ By December

⁴² C.S.P.C.A.W., v.24, 193.

⁴³ C.S.P.C.A.W., v.20, #210.

⁴⁴ C.S.P.C.A.W., v.24, #26.

⁴⁵ C.S.P.C.A.W., v.25, #154.

⁴⁶ C.S.P.C.A.W., v.25, #206.

⁴⁷ C.S.P.C.A.W., v.25, #364.

1710, Lieutenant Governor Alexander Spotswood informed the Board that Virginia was now sufficiently defended against maritime assaults.⁴⁸

The physical presence of naval ships provided two tangible benefits to colonists. First, and most obviously, they secured a colony's proximate waterways; preventing wanton, regular assaults by enemy privateers and naval vessels. Second, regularly staffed with marines, Royal Navy ships lent colonial militias trained, armed men with whom to defend their harbors. More symbolically, the presence of a Crown ship provided the inhabitants of colonial centres with official, metropolitan presence on the periphery and the impression of a fighting force that was far more accountable than the rogues they often relied upon. In some cases, colonies hung to the coat tails of the British Empire by a tenuous grasp, possessing neither adequate government nor an adequate defensive capability.

When Governor Douglas took command of Antigua in 1711 he found even the island's members of Assembly in such a sorry state that he questioned "if people under their misfortune do deserve to be esteemed the Representatives of a country." As he took command, he found the place infested with rebels of whom he broke "the knot and body." He had, in the time since his arrival, put in place a regiment of "ill arm'd and almost unserviceable" men to "give some assistance in putting H.M. commands in execution." The culprit for the island's state of affairs, according to Douglas, was privateering and "it will prove very hard for H.M. subjects to continue their settlements and vie with a powerfully supported neighbour by reason of their having been so often

⁴⁸ C.S.P.C.A.W., v.25, #555.

harrassed and destroyed by the most inhumane manner of making warr which is still practised on this side of the Tropick.”⁴⁹ This illusion of state structure was by no means restricted to the English. As an agent for the West India interest, Stephen Duport sent an intercepted a letter in December of 1710 concerning the late arrival of Governor de Philipeaux’ in an unstated French colony. The letter read; “It has been two years since M. de Philipeaux was appointed to this Government, and he comes not. The Court leaves us without ships, money, flour or Government.”⁵⁰

While governors, agents and merchants in the colonies saw tangible lapses in the ability of the state to police its frontier, officials in London primarily saw a problem with the behavior of the rakes in question. In one letter, the Board of Trade wrote that many inconsistencies in the activities of privateers could be resolved with proper paperwork. In accordance with the *Act for the encouragement of Trade to America*, wrote Dummer, privateers should have their “instructions annexed to their Commissions underwritten upon securities unquestionable.”⁵¹ Council members in London argued that the 1708 statute would help remedy the situation of the “pernicious practices” of privateers.⁵²

The desire to regulate the behavior of individuals belied a mounting distrust in employing them for official business as well. Toward the end of the war, the changing attitude of the Board on the subject of privateers could be seen in an undertaking to dislodge pirates settled at Madagascar. Following an Order of Queen in Council on June

⁴⁹ C.S.P.C.A.W., v.26, #194.

⁵⁰ C.S.P.C.A.W., v.25, #538. For Stephen Duport’s position, see Lillian Margery. *The Colonial Agents of the British West Indies, West Indian Studies, No 16.* (Routledge, 1971), p.92, fn4.

⁵¹ C.S.P.C.A.W., v.24, #100.

⁵² C.S.P.C.A.W., v.24, #111.

2nd, 1709, the Board was asked to consider the proposal of the Marquis of Carmarthen, urging the suppression of a massive force of pirates at Madagascar. The Marquis warned that one Captain Breholt was currently mounting an expedition.⁵³ Throughout June of that year, the Board gathered pertinent information. First, a list of men associated with the proposal was gathered; they proved to be a curious assortment of noblemen, almost all close to the Stuart dynasty, including George Douglas (Lord Morton), and even one notorious Jacobite, Sir David Nairne.⁵⁴ Morton and other members of the Lords Committee of Trade communicated (presumably through their assistants) that “having been in contact with the pirates of Madagascar, the Lords reccomends the following: That should protection be accorded to their estates, the pirates of that island would graciously accept a pardon. This comes to the Lords after Admiral Benbow’s son was shipwrecked and lived amongst the pirates for four years.”[sic] The Admiral’s son assured the Lords that these men were willing to return to Great Britain so long as their wealth could be assured. In the peers’ estimation, this was the best possible approach, as violence had been tried there and proven ineffective. The Lords also reminded the Board that the Crown could make substantial revenue off the duties on the pirates’ goods once they

⁵³ *C.S.P.C.A.W.*, v.24, #557.

⁵⁴ Anita Guerrini. ‘Douglas, James, fourteenth earl of Morton (1702–1768)’, *Oxford Dictionary of National Biography*, (Oxford University Press, Sept 2004; online edn, Oct 2005). ; Edward Corp. ‘Nairne, David [Jacobite Sir David Nairne, first baronet] (1655–1740)’, *Oxford Dictionary of National Biography*, (Oxford University Press, 2004).; Philip Carter. ‘Howard, Charles, third earl of Carlisle (1669–1738)’, *Oxford Dictionary of National Biography*, (Oxford University Press, Sept 2004; online edn, May 2007). Also see *C.S.P.C.A.W.*, v.24, #575.

passed into the kingdom. Included in the letter was a petition from a number of the pirates' wives to have their husbands return their spoils home.⁵⁵

After weighing the details and gathering more evidence over the rest of the year, the Board submitted a proposal to Parliament on December 15th, 1709. First, the Board stated, that the petitioner in favor of the expedition, the Marquis of Carmarthen, would have the expedition capture Mombasa and Patta from the Arabs at Muscat. Second, according to three depositions, including one from barber-surgeon Lawrence Waldron, the proposed leader of the expedition, Captain Breholt, was a "contriver". Apparently some time prior to this proposal, Breholt, then a pirate, had been separated from his crew and brought into custody on charges. Although the Captain was later released for lack of evidence, he had been endeavoring to return to Madagascar for some time, and had taken a great deal of money from various lords in the process. In light of this news, Carmarthen recommended that royal officers be used to lead the expedition, and not privateers. Considering this evidence, the Board tended the following proposal to the Commons:

[The pirates at Madagascar] are become a manifest obstruction to trade, a scandal to our nation and religion, being most of them English, and at least 4/5ths. Upon a General Peace, when multitudes of soldiers and seamen will want employment, or by length of time and the pyrates generating with the women of the country, their numbers should be increased, they may form themselves into a settlement of robbers as prejudicial to trade as any on the coast of Affrica. It seems morally impossible to reduce them by force, for the pyrates have, by liberality in bestowing part of their bodies on the inhabitants, so gain'd their love and esteem that, should any superior force be sent to reduce them, they may readily march up far into the country and be safe. [*sic*]⁵⁶

⁵⁵ *C.S.P.C.A.W.*, v.24, #620.

⁵⁶ *C.S.P.C.A.W.*, v.24, #908.

Claimed the Board; “fair means is the only way to reclaim them.” By “fair,” the Board proposed that an honest pardon, with no treacherous motive to reclaim from the pirates their stolen booty, be offered to them by someone of “considerable quality” who was known to them. They lamented the fact that in the past, pardons had been only half-hearted, offered by men of ill-repute, and often the pirates had been crossed in the matter. Despite this, pirates had offered once again to turn themselves in. Since most of their goods were stolen from the Mughal Emperor, the Board argued, their return would be impossible anyway. It was thus to the advantage of the entire kingdom that the men return to England with their wealth, and become skilled and loyal subjects of the Crown. In order to assure this, the Board recommended that the process be overseen by four or five Royal Navy ships.⁵⁷

It is significant that the Commissioners of Trade and Plantations would choose to recommend this task to the Royal Navy. In the past, privateers had been commissioned to handle pirates in the Indian Ocean, as well as in the Caribbean. This event marked a different strategic approach by the Board – one that encouraged official vessels to handle tasks of critical consequence to the expansion of the state. The presence of pirates near Madagascar continued to be a great annoyance to the British as it continued to raise the specters of Avery and Kidd, thus risking permanent injury to the relations of between the Mughal Emperor and the East India Company.⁵⁸ While this incident did not mark the end

⁵⁷ C.S.P.C.A.W., v.24, #908.

⁵⁸For more on the East India Company’s tenuous relationship with the Mughal Emperor see: Philip Lawson. *The East India Company: A History, 1600-1857* (London: Longman Press, 1993).

of state involvement with private men of war, it did suggest a certain questioning of their strategic value. While they were inexpensive to Commission, and were supposed to bring additional wealth into the Crown's coffers, a decade of experience with them had led to the conclusion that they could not be delegated every task on the imperial and maritime periphery. Furthermore, this proposal recognized the potential for an outbreak of piratical violence from men who lost their employment in the wake of a General Peace. The years after the First War of Spanish Succession proved to be the most significant for outbreaks of maritime banditry that the world has ever known. The conflicting attitudes of British officials on both sides of the Atlantic during the war, however, created a contradictory moral and legal environment, in which, waves of piratical violence could easily wash over the Atlantic in the final fifteen years of the Golden Age of Piracy.

Conclusion

The Consequences of Peace, 1714

The Board of Trade and Plantations' hope that a general peace would stabilize the colonies and foster trade to the Americas was naive. This judgement is not only passed in hindsight, but was articulated by colonial governors as well. On August 28th, 1712, a circular letter was sent out to all governors, informing them of the Treaty of Cessation, and instructing them to “give strict orders throughout all places under your Government, and notify likewise to the Commanders of H.M. ships or privateers who happen to come into your ports that all hostilities are to cease and the subjects of France and Spain not to be molested either in their persons or effects.”¹ The peace was supposed to last until December, 1712 and June 1713 “beyond the line,” while waiting on a formal treaty to be ratified. Passes were to be issued to French and Spanish vessels and all due care was to be taken to ensure the safety of foreign merchants.² Once again, London ignored the warnings of those governors closest to the coming threat.

By October, word reached the Board of “several disorders and crueltys” committed by English privateers against Spanish merchants.³ In December, two letters arrived in London from Jamaica. These made it clear that word of the Treaty of Cessation had arrived in America, but that despite this, there was an increase in privateers under Spanish commissions.⁴ As late as 1714, the Lieutenant-Governor of Bermuda, Henry Pulleine, informed the Board that Spanish privateers, easily able to overpower any

¹ *Calendar of State Papers, Colonial; America and West Indies.* (C.S.P.C.A.W.) ed. Cecil Headlam, v.28, (Vaduz: Kraus Reprint Ltd., 1964,) #66.

² *Ibid.*

³ *C.S.P.C.A.W.* v.28, #94.

⁴ *C.S.P.C.A.W.* v.28, #167 & 176.

vessel in the region, regularly stopped ships and claimed them as prizes should they find as little as ten Spanish coins aboard. Pulleine requested an immediate solution to the problem, as he feared more seizures of this kind in the near future.⁵ In the wake of protracted conflict, sailors who had eked their livings through violence sought to continue to make their livings through violent means, regardless of whether European powers had concluded a peace or not.

An increasing amount of mariners also abandoned the pretense of a letter of marque. In October of 1712, Alexander Spotswood reassured the Board that Virginia's coast was generally secure from rival states, but warned them that the principal fear of the colonists was piratical violence.⁶ In April 1713, administrators in London received word from Governor Hamilton in Jamaica that pirates, freebooters and privateers had completely infested a previously safe corner of the island. Warned Hamilton: "What we have now most to apprehend is the interruption of the trade in these parts may meet with by pyratts, being informed there are allready some hundreds of them gott together in the Gulff of Darian."⁷ Oblivious to a mounting threat that was all too real to colonial subjects, the Board responded to Hamilton's concerns in July, 1713, writing; "The ending of the war will ease you of any farther trouble of that kind."⁸

By April 1714, the first hints of the most violent and bloody years of what is now called the Golden Age of Piracy were readily apparent. In an alarming letter, Lieutenant-Governor Pulleine wrote that "trade, all over ye West Indies, is, at present, at a stand; and

⁵ *C.S.P.C.A.W.* v.28, #544.

⁶ *C.S.P.C.A.W.* v.28, #99.

⁷ *C.S.P.C.A.W.* v.28, #291 & 327.

⁸ *C.S.P.C.A.W.* v.28, #413.

when it will recover its usual currency, is more than I can pretend to foresee.” The West Indies had once again become the stomping ground of pirates. In this letter, Pulleine summarized what had become of the Bahamas during the war. Although home to some 200 families, Pulleine lamented the complete absence of any form of government on the island; “every man doing onely what’s right in his own eyes.” In the absence of governmental authority, the islands had become home to “three setts of pyrates” who now ran Bahamas as their own private colony. Led by the pirates Hornigold and Cockram, it was reported that these rogues had taken over “three score thousand pounds” from the Spanish in the last eight months in both specie and Brazil wood. When the Spanish attempted a counter-attack, the pirates split the booty and dispersed.⁹

Although lawless, the situation, as reported by Pulleine also demonstrated how completely the pirates were tied into the Bahamian economic system. Cockram, for example, was married to one of the richest inhabitants of the island. Furthermore, it had become obvious that the pirates were able to continue making money off their plunder, as they were trading their illicit goods with the Dutch, thus circumventing the detested duties imposed on the colonies by the Crown. In Pulleine’s estimation, the island was in such a sorry state that only a determined settlement project could restore it to some use for the Crown. He argued that the proprietors had long since abandoned the colony as “derelict” and as such, had forfeited their rights to them. Pulleine recommended that the Crown annex the Bahamas to the comparatively well run island of Bermuda in order to “scowre them clear of that sink or nest of infamous rascalls, who do an infinite mischiefē

⁹ *C.S.P.C.A.W.* v.28, #651.

to trade, by making us scandalous to our neighbours.”¹⁰ The Bahamas proved to be one of the critical harbors for pirates during the Golden Age and its settlement was one of the critical strategies employed by the Crown to drive piracy out of the Caribbean.¹¹ The discussion surrounding the island, however, illustrates a few important points that we must keep in mind when contextualizing early modern piracy.

During Queen Anne’s War, the communications sent between London and its American possessions clearly indicate a tension between different approaches to solving the problems of a weakened state and rampant lawlessness. Often overlooked, this period of the Golden Age is informative of many contributing factors to the massive outbreak of private violence that occurred following the Treaty of Utrecht in 1713. The demobilization of over 30,000 sailors from the Royal Navy has often been put forward as one of the most significant proximate cause of the Golden Age and it is, of course, important to understand the labor dynamics that contributed to this bloody period. By placing undue importance on it and setting it as the beginning of the Golden Age, however, historians may overlook the changing world in which these sailors worked. To find those changes, it is critical to examine the sources analyzed in this dissertation.

A focus on the communications of the elites on both sides of the Atlantic helps to underline that piracy was not an entirely class driven phenomenon, but also informed by regional variation. Of course London’s legislative initiatives of 1700 and 1722 possess

¹⁰ *Ibid.*

¹¹ Benjamin Hornigold, for example, was Blackbeard’s original captain. See Markus Rediker. *Villains of all Nations* (Boston: Beacon Press, 2004) or David Cordingly. *Under the Black Flag: The Romance and Reality of Life Among the Pirates* (New York: Harcourt Brace & Company, 1995).

many elements of what might be termed “class discipline,” in that these statutes sought to place the defense of cargo on the shoulders of the worker and penalize those that threatened property and capital accumulation. Furthermore, increasing resistance to privateering enterprises also demonstrates an apprehension of the commoner by colonial and metropolitan elites and a reluctance to afford to sailors their easiest means of financial mobility. Finally, the reckless demobilization of 30,000 sailors can very easily be labeled as complete disinterest in the plight of the common tar. These are all valid points, especially if the social disruptions of the previous century and the discussions taking place during Queen Anne’s War are overlooked.

There is enough evidence, when these two factors are considered, to suggest that piracy was a commercially driven venture that employed means developed in a region where the state was particularly weak. With over a century of neglect, colonists and their governors adopted methods of doing things that, while irritating to London, helped them solve their financial and administrative problems in their particular colonies. Privateering, smuggling, wrecking, and ultimately piracy, were practical and traditional solutions to the complications engendered by the limited reach of metropolitan administration throughout the seventeenth century. In fact, some governors actually contributed or at least tolerated the lawlessness in their colonies, thus reinforcing traditional patterns of behavior and consumption that threatened London’s commercial interests. When, at the turn of the eighteenth century, legislative innovations were introduced into the various colonial spheres, a period of complex adaptation to the realities of a new metropolitan policy began. This thesis has suggested that the policies

issued from London met with varying degrees of success and resistance depending on where they were received.

Throughout the war, tension between governors and the Board of Trade and Plantations is apparent. Although in many cases willing to enforce the increasing number of statutes regulating trade, it is obvious that governors continued to seek more practical solutions to the problems of poor trade and private violence. In the absence of real state presence, governors continued to use privateers to handle the defense of their colonies despite an increasing apprehension towards the latter's actions. In response, a more concrete vision of state was becoming increasingly articulated in the form of apprehension towards private colonies and a definite preference towards Royal Navy ships rather than privateers.

Peace provided no respite either. Rather, it let loose a host of tensions in the form of wide scale piracy that throughout the war had been directed against the Spanish and the French. As the case of the Bahamas illustrates, the unbalanced attention the various colonies of the British Atlantic received from the metropolis created pockets of lawlessness wherein sailors could congregate to continue to prey on colonial shipping. The ensuing period has left to posterity some of the most enduring names in piracy; Blackbeard, Bartholomew Roberts, Calico Jack, to note but a few. The factors that encouraged these men to take up the pirate's life in the wake of peace, however, were in many cases created by London's increasing, albeit uneven, focus on its colonies during the war, and the varying degrees with which it established itself in its different colonial possessions.

This emphasis on the regional dynamics of piracy and the expansion of the British state opens up a whole set of considerations that require further research, research that lays beyond the purview of this thesis. Bernard Bailyn has pointed to the fact that the Atlantic world was a chaotic environment, filled with mobility, conflict and forced adaptation to often hostile conditions. Furthermore, David Armitage has eloquently expressed the need to engage in a micro-study of the ports and communities that, as a whole, made up the British Atlantic world.¹² With these observations in mind, it becomes clear that an in depth study of these various Atlantic harbors may provide the historian with much of the most useful information for understanding not only the function of piracy within these communities, but also the turbulent collective experience that characterized and embodied the haphazard expansion of the British state.

¹² Bernard Bailyn. *Atlantic History; Contexts and Contours* (New York: Cambridge University Press, 2005). David Armitage. "Three Concepts of Atlantic History," in *The British Atlantic World, 1500-1800*. David Armitage and M. J. Braddick, eds. (New York: Palgrave Macmillan, 2002), pp.21-23.

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