

This is the manuscript of an article that has been accepted for publication by *Law and History Review*. It will be published at the end of 2017.

“The Prostitution of the Russian Flag”: Privateers in Russian Admiralty Courts, 1787-1798

In 1794, the Russian Empire convened the first high admiralty court for appeals to review petitions of merchants and privateers embroiled in the second Russian-Ottoman war of Catherine II's reign (1787-1791). The Commission of Archipelago Affairs, as this admiralty court was called, decided over 170 cases on the basis of Russian maritime law and its interpretation of the law of nations concerning commercial navigation and privateers. A year into its work, the Commission determined that one case sat at the center of most disputes that pitted merchants against Russian-flagged privateers: the affair of Lambros Katsonis. The Commission's decisions for most of the cases on its docket rested on its determination of Katsonis's standing in the Russian Empire. Once decided, the outcome to the matter went on to define the distinction between Russian privateers and naval officers in Russian law – precedents that shaped Russian naval practices for the next fifty years.

The Russian appellate commission's inquiry into the legal standing of combatants commonly known as privateers (korsary or kapery in Russian) was not so far removed from similar queries in other seafaring states and empires at the time. In 1795, Georg Friedrich de Martens published his famous Essay on Privateers, a topic he saw as immensely relevant to the ongoing European maritime wars.¹ With the waters around Europe and beyond sites of captures and reprisals, Martens saw it topical to inquire into “the origins of [...] privateers, and the laws subsisting with respect to them...” while recognizing that general knowledge of the law of nations and universal principles of Europe was not enough, and one ought to inquire into the “public laws and interests of every state in particular.”² At the end of the tumultuous eighteenth century rife with legal disputes over prize doctrine and neutral states' rights to commerce and navigation at sea in wartime, to Martens, as to his contemporaries Thomas Hartwell Horne who translated his essay into English and the American lawyer Henry Wheaton, a full understanding of the laws and practices of privateering appeared to be necessary and practical.³ To these jurists, as to the Russian government, the question of the legal basis of privateering seemed of central

concern to state policy as well as to individual practitioners of activities surrounding prize taking.

The ongoing Revolutionary Wars in Europe at the time of Martens' treatise wrought havoc on merchant shipping in European waters and beyond. As had been the case for most of the eighteenth century, privateers were still deemed to be the biggest perpetrators of maritime commercial violence. According to the data assembled by David J. Starkey, there were around 1800 actual vessels commissioned in Britain in the period 1793-1815.⁴ The battle over commerce raiding continued in admiralty courts, and both the High Court of Admiralty and the U.S. Federal Courts often decided in favor of their nations' privateers in prize cases.⁵ Devastating trade prospects compelled merchants to move their capital away from commercial vessels to financing privateers.⁶ If studies of British naval power suggest that by the end of the eighteenth century privateers played a less significant role than they had before, this had little reflection on other states such as Russia and the United States issuing letters of marque and relying on auxiliary naval forces to augment their strength at sea.⁷ The turbulent Spanish American revolutions in the 1820s provided further opportunities for commerce raiding and maritime predation and the revolutionary governments issued letters of marque to U.S. privateers.⁸

As a longtime practice of European empires, but a relatively recent one for the Russian Empire in the late eighteenth century, privateering offers an insight into Russian legal acculturation as the empire used European legal discourse to frame its practices. The study of privateers and admiralty courts is by no means new, but the aim of this article is to examine how European understandings of privateers held up to Russia's legal scrutiny. The few studies on Russian engagement with the law of nations in the eighteenth century point to a successful, but perhaps uncritical, appropriation of standards of western international law by Russian diplomats and statesmen.⁹ The laws of maritime warfare, in particular, offer an example of a practice for which there were few preexisting legal antecedents in Russia; in the late eighteenth century privateers became a wholly new legal category in Russian naval service.¹⁰ For this reason, it is especially interesting to examine which aspects of Russian practice were similar to other European practices and which were *sui generis*. This article will begin with an overview of the historical context in which the Russian Empire first commissioned large-scale use of privateers and examine the legal instruments through which it sought to control them; it will then turn to the Commission for Archipelago Affairs, a little-known, temporary judicial and administrative

body that was imbued with a surprising amount of power over many lives in the Eastern Mediterranean; finally, it will analyze the Commission's caseload, focusing on its central legal dilemma revolving around the activities of Lambros Katsonis and the social and legal implications of the decision in this case.

In contrast to Western jurists who defended the legitimacy of private combatants under a sovereign sanction, the Russian government at the end of the eighteenth century was more concerned with how to differentiate privateers from other naval irregulars and the state navy. As moral condemnations of privateering added up, Martens and his contemporaries sought to demonstrate the legal legitimacy of privateers while proscribing certain actions that would render privateer actions as piracy.¹¹ Drawing on a historical distinction between private and public warfare, Martens began his Essay by defining privateers based on their ownership of the vessel and a sovereign's explicit consent for privateer activities.¹² Sovereign consent came in the form of letters of marque or reprisals, authorizing the use of the flag as well as legal condemnation of a prize in an admiralty court, allowing the privateer to collect prize money from the sale of the prize and its cargo. Russian maritime law similarly sought to legitimize the privateers' actions while insulating the government from obligations to the privateers or on their behalf. While the entire western legal canon seemed to take the designation of a privateer as an a priori legal designation stemming from a financial or legal arrangement, in Russia it was this very distinction that sat at the heart of the Katsonis case.¹³ As this article shows, the Russian Empire appropriated a wholly different standard for determining who was a privateer, not through ownership but through moral qualities. Faced with the question of whether Lambros Katsonis was a privateer, the Commission for Archipelago Affairs evaluated his actions based on eyewitness testimony and made their judgment of his moral character as the basis for its determination. It is tempting to attribute this difference to the old reading of Russian law as lacking the inalienability of private property.¹⁴ But as the discussion in the Commission for Archipelago Affairs shows, the idea of state and private ownership of vessels was well understood by all the participants in the case. On the contrary, the legal differences to which I point rested on the ethos of the combatants themselves and had much more to do with the ways in which the phenomenon of privateering under the Russian flag unfolded.

Russian Privateers in the Eighteenth Century

In commissioning privateers the Russian Empire drew on a long tradition of supplementing its army with irregular forces, yet this specific kind of combatant had much to do with Russian encroachment into the Eastern Mediterranean in the late eighteenth century. In the reign of Catherine II (r. 1762-1796) the Russian Empire fought two wars against the Ottoman Empire, the first lasted from 1768 to 1774 and the second from 1787 to 1791. In both wars Russia expanded its legal reach into the Eastern Mediterranean by utilizing ties to Eastern Orthodox communities in the region. Russia's connections with the Orthodox subjects of Ottoman and Austrian Balkan territories reach back centuries, and include a wide array of military, cultural, and religious exchanges. Individual studies have illuminated the importance of formal military and political ties, and their role in shaping Russian activity and politics beyond the empire's territory.¹⁵ In Catherine II's reign it was Russia's admiralty – that is, the naval personnel, infrastructure, and bureaucracy – that exerted control over the fates of the Christian reaya (Ottoman tax-paying subjects). In advance of the 1768 war, Russian agents planted the seeds of rebellion among the Ottoman Orthodox populations. Agents travelled throughout Albania, the Peloponnese, and the Aegean Archipelago, conferring with local secular, spiritual, and military leaders about a coordinated rebellion timed to coincide with the arrival of the Russian naval fleet in the Mediterranean.¹⁶ In the 1780s, with a second war with the Ottoman Empire imminent, the Russian government used its newly established consular service in the Levant to recruit combatants and captains, and to arrange financial and political support for Russian operations against the Porte.¹⁷ Consuls worked with local merchants and townspeople to distribute money and credit to buy armaments, vessels, and provisions for combatants and skippers. Veterans of the 1768 war such as Antonio Psaro, Ghikas Bitsiles, and Damiam Zaguriskii occupied many of the consular positions throughout the region.¹⁸ Drawing on the concessions from the 1774 peace treaty, Russian agents sailed around the Mediterranean under commercial flags, delivering instructions to consuls and other sympathizers in hopes of lining up political allies.¹⁹ Finally, Russian propaganda played an important part in recruiting combatants. Catherine II issued manifestos calling for Balkan Christians to mobilize against the Ottomans in anticipation of the arrival of the Russian fleet, which would bring necessary armaments and provide support in the upcoming showdown.²⁰

As the specificities of the Mediterranean region dictated some of the peculiarities of Russian privateering, the Russian Empire's response to these challenges offers a new perspective on the geopolitical quagmire traditionally referred to as the Eastern Question. In contrast to numerous studies of Russian foreign policy which assert that religion or ethnicity constituted the ideological motivation for Russian action in Ottoman domains, I argue that many of these activities took place under the explicit legal sanction of the Russian Empire and within the framework of Russian admiralty law, which itself was based on Russia's interpretation of the law of nations.²¹ Searching for the origins to Russian policy in the eighteenth century, scholars have projected assumptions about both Russian intentions and the nationalist movements of the nineteenth century. In fact, at the end of the eighteenth century, many of the modern stable political identities that were to emerge by the early twentieth century were in flux. Tensions cut across social lines just as much as they did across nationality and religion. Presupposing Russia's affinity towards particular groups overlooks the possibility that Russian actions shaped the processes of national identity formation in these groups, lending political valence to particular social categories.²² From this perspective, international law might indeed appear to be a pretext for action rather than the method by which the Russian Empire extended its sovereign reach by means of its admiralty jurisdiction.²³ This particular element of Russian sovereign power developed largely in the context of several Russian-Ottoman wars at the end of the eighteenth century, when the Russian Empire recruited large numbers of foreign subjects to serve under its flag and developed the legal infrastructure by which to manage them.

From the perspective of the law of nations, Russian recruitment of privateers to sail under its flag mirrored the state of European law described by contemporary jurists such as Martens and Wheaton and historians' accounts of French, British, and American practices. The Russian Empire was a recognized sovereign polity endowed with the authority to issue letters of marque, or patents - in Russian terminology, without prompting the questions or disputes that arose with North African corsairs or other polities whose sovereign status was in question.²⁴ Nor did Ottoman and Habsburg subjects who accepted Russian commissions raise the same concerns about the legality of their status as enemy combatants as Dutch commerce raiders had in their rebellions against the Spanish.²⁵ Notably, many aspects of Russian privateering were drawn from the British experience. In 1769, the President of the College of Foreign Affairs Nikita I. Panin asked the Russian special envoy in London, Ivan G. Chernyshev, to explain how the British used

admiralty patents, to whom they entrusted this power, and to relay other logistics of commerce raiding.²⁶ The structure and proceedings of Russian prize courts, however, was more comparable to the French Conseil des Prises in which the commission that determined the legitimacy of prize vessels consisted of members appointed by the monarch.²⁷ Much as they did in the French system, Russian privateers relied on consuls throughout the Mediterranean region to help equip their ships, recruit crews, and serve on prize commissions.²⁸

In common with existing European practice, the Russian Empire regulated its privateers through individual patents, detailed rules and instructions, and with the assistance of prize courts. Indeed, in Russia as elsewhere, the entire enterprise of sanctioning and controlling privateers relied on regulation.²⁹ The Russian government expected its privateers to adhere to prescribed procedures in capturing merchant vessels, searching neutral vessels, and taking prisoners. The Rules for Privateers, which enumerated the standards of behavior for privateers under the Russian flag in twenty-seven statutes, were translated into several languages and circulated among the privateer captains.³⁰ The prize court (or prize commission, in Russian parlance) formed the cornerstone of this system. Privateers were expected to bring captured vessels and cargo to the nearest neutral or allied port for a thorough examination by a prize commission, which would assess the legality of the capture and condemn the vessel as a good prize, allowing the booty to be sold at public auction and the privateer to be remunerated with nine-tenths of the sum received. The prize commissions were required to provide both the petitioners and privateers with copies of their decisions – legal record of the event, which could then form the basis of an appeal of a consul or commission’s decision concerning a captured prize to the Russian imperial court (dvor).

These practices, fine-tuned by European empires and their admiralty courts over centuries, were appropriated by the Russian Empire on a large scale in its wars against the Ottoman Empire in the late eighteenth century. Russian activity in historically Ottoman domains in the Eastern Mediterranean and in the Black Sea following the 1774 Treaty of Küçük-Kaynarca that ended the first war has been central to the narrative of Ottoman decline and a source of dispute in the political and diplomatic standoff between European powers in the region.³¹ Naval practices in Russian-Ottoman wars saw the evolution of Russia’s military strategy towards a more determined effort to attack Ottoman commerce, intercept food provisions in an effort to starve Constantinople, and interrupt Ottoman communications. By the 1780s, privateers acquired

a greater strategic value in the eyes of Russia's military leadership. With the outbreak of the 1787 war with the Ottoman Empire, the Russian government turned to the experience of the 1768 war, particularly in the recruitment of irregular troops to augment its naval manpower.

However, the aftermath of the 1768 war and developments in Russia's policy towards seaborne raiding in the 1780s accounted for notable differences in the role privateers played in the second Russian-Ottoman war. In the intervening period, the government had taken a more resolute stance on the subject of neutral commerce at sea, declaring maritime trade an inviolable right and taking efforts to protect neutral rights.³² Russia's interpretations of the laws regarding the permissibility of seizing merchant vessels or enemy cargo were codified in several pieces of legislation and became the cornerstone of what Russian officials referred to as the "neutral system." At the same time, Russia changed its reward structure for privateers, introducing strong financial incentives to attract irregular combatants and reward them handsomely for their service.³³ The sudden outbreak of a war with Sweden in the summer of 1788 kept the Baltic Sea fleet occupied in the north of Europe and Russian-flagged privateers were the only Russian armed ships in the Mediterranean during the war. Without a strong official naval presence, the government attempted to introduce consular oversight to regulate the privateers; but, in reality, the government had few tools with which to restrain the unsavory activities of these soldiers of fortune.

Despite structural changes introduced in the 1787 war that marked many naval auxiliaries as distinct, it was still unclear who among the combatants fit the newly appropriated term "privateer." True to what historian Eric Lohr has described as a "separate deal" model, Russian commanders recruited a variety of foreigners to serve the Russian Empire under different terms and contracts and by far not all naval officers pledged an oath to the Russian monarch.³⁴ Among the variations of terms of service to the Russian crown were the propensity of British subjects to request a separate schedule for the allocation and distribution of prize money while three Corsican captains asked for an enlistment bonus for all recruits and a priest for their exclusively-Corsican battalion.³⁵ The indeterminate status of privateers vis-à-vis irregular naval troops is best exemplified by the government's decision to organize the flotillas sailing around the Mediterranean into a coordinated force.³⁶ The flotillas were intended to disrupt food supplies to Constantinople and divert at least some of the Ottoman naval forces away from the Black Sea, or, in Matthew Anderson's words, to add "nuisance value."³⁷ One flotilla consisted of state-

owned ships captained by Lieutenant Samuel de Chaplet of the Russian Navy. In anticipation of hostilities with the Ottoman Empire over Russia's annexation of Crimea, Anton Psaro and other Russian agents had begun making preparations – purchasing ships and stockpiling timber – for Russian naval action in the region.³⁸ Under the assumption that the Baltic fleet would soon arrive in the Mediterranean, as it had in the previous war, the state-owned flotilla had seemingly done very little before 1789. After the Swedish declaration of war in 1788 detained the Baltic fleet in the northern seas, Russian command placed Guglielmo Lorenzo, a corsair from Malta and one of at least a dozen other officers recruited into Russian service, in charge of the state-owned flotilla's nine vessels.³⁹ The second flotilla was headed by Lambros Katsonis, who had been terrorizing Mediterranean commerce since early 1788 and had already acquired a reputation as a notorious blaggard among many of the region's officials.⁴⁰ The French consul Pierre Frammery was one of many to express his outrage at Katsonis's "criminal conduct" to Russian consul in Trieste Spiridon Varucca, likening Russian support of Katsonis's greed to the "prostitution of the respectable Russian flag."⁴¹ As we shall see below when we examine his case in greater detail, Katsonis began his commerce raiding operation with funds from senior government officials acting in a private capacity, but soon required government assistance to secure his release from jail and pay his debts. The government's efforts to corral him and his men into state service added further ambiguity to his position in the Russian navy.

The Commission for Archipelago Affairs

The records of the Commission for Archipelago Affairs are the best source we have for the practice of Russian admiralty law in this period. Catherine II convened the Commission for the Affairs of the Archipelago Flotillas during the War with Turkey [sic] (Kommissiia po delam Arkhipelagskoi Flotilii v voinu s Turtsiei) -- hereafter the Commission for Archipelago Affairs -- after the end of the Russian-Ottoman war, tasking it with reconciling accounts and investigating the activities of Russian flotillas in the Mediterranean Sea. The Rules for Privateers that guided Russian practice in the Eastern Mediterranean in the war called for the creation of a higher-level admiralty court to settle any disputes or dissatisfaction of merchants or privateers, but it was the flood of complaints and requests for payment, reimbursement, and restitution after the war that necessitated prompt action and a thorough review of Russia-sanctioned activities.⁴² In 1794 the Commission was formed under the purview of the Procurator General of the Senate (General Prokuror), Prince Alexander N. Samoilov. Consisting of two members of the Admiralty College

– Vice-Admirals Wilhelm P. von Dezin (Vilim Fondezin, also spelled von Dessen) and Efim I. Lupandin – and two from the Department of Government Revenues – Ivan A. Naryshkin and Karl F. Moderakh – it then operated until 1798.⁴³ As Catherine herself noted, “keeping the flotillas in the Mediterranean Sea in the latest war against Turkey [sic] was both costly and troublesome” for Russia.⁴⁴ Indeed, the costs were not only financial but also political.

Instructions given to the Commission offered little by way of guidance, but the emphasis on procedure, evidence, and validity suggests the importance of the veneer of legality to the Commission’s proceedings. The Commission was instructed to “rule on” the grievances presented before them “with due process” and to present to Catherine “those what were shown to be valid.”⁴⁵ The cases were adjudicated according to the Rules for Privateers and, where appropriate, the Naval Statute of 1720. But the Commission’s understanding of the sources of autocratic law extended beyond laws and edicts issued by the monarch; the Commission evaluated orders and instructions from the monarch and military superiors as sources of Russian law.⁴⁶ Dispatches from senior military officials such as Vice-Admiral Samuel Gibbs and Lieutenant-General Ivan Zaborovskii to their subordinates were treated by the Commission as legally-binding instructions. As others have shown, this emphasis on legal process was fairly typical of Catherine II’s reign.⁴⁷ But unlike domestic legal initiatives from the Legislative Commission to the equity courts, which had mixed results, the Commission for Archipelago Affairs proved successful in establishing itself as a credible adjudicator of petitions and claims within its jurisdiction.⁴⁸ It was a felicitous example of Russia’s practice of law-based governance.

As an institution, the Commission for Archipelago Affairs presented a unique example of Russian legal practice that drew on international norms and sought to make its decisions comprehensible to foreign observers. The Commission’s membership and mandate reflected the dual juridical and administrative roles of the Russian bureaucracy, with each case’s successful resolution requiring the Commission both to rule on legal questions and calculate the sums owed the petitioner. The procedure – a written inquisition, rather than an adversarial trial – also made the format of this prize court different from British and American admiralty courts. On the other hand, while petitions to the Commission were submitted separately, the Commission for Archipelago Affairs considered the cases together – as distinct pieces of a bigger whole (and as costly line items in the budget of the war). The records of the Commission, particularly its

opinions and case summaries, contain annotations referencing other claims simultaneously under consideration. The Commission cross-referenced and applied evidence and decisions from one case to another, demonstrating how proceedings influenced their reasoning in a particular case. By this method, the Commission identified important legal questions that required resolution before it could proceed to the mundane details of calculating and apportioning prize shares and restitution claims. Meanwhile, the Commission's guiding legislation was the Rules for Privateers, which contained commonly accepted practices among European powers such as the adherence to a prize court's judgment, relying on flags to determine nationality of a vessel, and commonly accepted definitions of contraband. The Rules likewise upheld Russia's vision of the protection of neutral rights in maritime warfare, a position Catherine II claimed was consistent with the law of nations. As a piece of legislation governing Russian actions, the Rules were widely circulated in many languages throughout the Eastern Mediterranean region.⁴⁹ The contents of the Rules and the principles behind them were likely well known throughout the region as plaintiffs regularly referenced them in their petitions. While a Russian institution, the Commission was therefore both accessible to foreign petitioners or consuls acting on their behalf, and decided its cases in accordance with international norms.

Although it was intended as a higher-level prize court, the Commission oversaw a wide range of cases. Many of the records concerning the activities of Russian privateers in the Mediterranean are preserved in Fond 150 of the Rossiiskii Gosudarstvennyi Arkhiv Voenno-Morskogo Flota [Russian State Naval Archive]. However, these were not the only records pertaining to privateer activity in the Mediterranean; other complaints and requests bypassed the Commission and ended up in the personal cabinet of Catherine II or one of her secretaries.⁵⁰ Some of the Commission's files have been lost over the years, and others have been spliced together for efficiency. Today there are 141 discrete files, containing about 171 different complaints. Over one hundred of the dela (cases) handled by the Commission were linked to the activities of Lambros Katsonis. Of these, roughly half came from combatants on his flotilla (some petitions represented as many as seventy crewmembers), and the other half were complaints from creditors and merchants who sought reimbursement of their expenses or restitution of their property. Still, this division is more arbitrary than representative of any significant differences between the cases that were being decided.

With the exception of passing mentions in the few studies of Russia's privateers, the central role of the Commission for Archipelago Affairs in the aftermath of the 1787 war and in Russian legal history remains largely unexamined in scholarly literature.⁵¹ For most historians, the Commission's role in analyzing the legalities and apportioning costs for privateer activities generally held little interest, although several popular monographs valorize their military accomplishments.⁵² At the same time, jurists and legal historians have noted the existence of various pieces of legislation but never the application of the laws. My research into the cases overseen by the Commission for Archipelago Affairs demonstrates its central role in resolving the many various disputes that arose after the 1787 Russian-Ottoman War. What follows is a discussion of the central issue in front of the Commission – the legal status of Lambros Katsonis and the combatants who fought alongside him for the Russian Empire – as well as the implications of that decision for merchants from the Eastern Mediterranean. Together, they reflect the procedure of the Russian admiralty courts, the values that underlay its decisions, and the surprising amount of authority wielded by this Commission. They highlight the legal tensions that in Russia's foreign policy, which had been previously discounted or overlooked in a broader narrative of the Eastern Question. Although seldom portrayed in this way by historians, prize courts constituted notable elements of Russia's foreign policy practice and responsible for the adoption of international norms in this period and subsequently.⁵³

The War According to Katsonis

The petitions submitted by combatants from Lambros Katsonis's flotilla constituted roughly one-third of the Commission's caseload, allowing it to consider the general principles underlying the officers' requests. With some variation, the privateers all made the same claims. They presented a short biography, service career, and rank, and detailed their achievements in service and their loyalty to the Russian crown. These claims were supported with any available evidence, including patents for rank and testaments from their commanders attesting to their bravery, valor, and indispensable service. These duties included fighting enemy ships, completing secret missions, and recruiting and financially supporting crews on their vessels. The plaintiffs, with some variation, sought salaries for their service, reimbursement of any personal expenses, and awards of prize money for themselves and their entire crews. Importantly, many requested a promotion in rank and a permanent placement in the imperial Black Sea fleet. Overall, the

simultaneous requests for prize money as privateers and salary as officers highlights the ambiguity of how even irregular combatants saw their position in relation to the state.

The most important question before the Commission was the legal status of these combatants. As the Commission insisted, the status of the flotilla was central to resolving other cases such as whether to pay salaries, prize money amounts, or reimbursements to merchants. The Commission issued its first decisions to hundreds of Katsonis's crewmembers towards the end of 1794. In each of these cases the Commission universally denied salaries and wages to the petitioners on the basis that they were privateers. One typical denial read:

As the named petitioner Major Ziguri served on Colonel Lambros Katsonis's flotilla, which was as the facts of the case show organized as a privateer flotilla, and not from the treasury and which during its operations in searching for the enemy is not only entitled to any salary, but also the privateer must on the basis of Article 9 pay one-tenth to the treasury. Consequently, he is not entitled to a salary for serving under Lambros Katsonis in time of war, and in light of Articles 1 and 9 of the aforementioned Rules, he is not entitled to 2000 florins for arming the frigate Achilles.⁵⁴

The Commission's rationale rested on a distinction that it drew between a state (kazennaia) flotilla and Katsonis's private or free (vol'naia) flotilla. At first glance, the Commission's decision seemed to reinforce the conventional understanding between the two, in which the crew of the former were entitled to wages and provisions from the Treasury, while the crew of the latter would be paid solely out of their prize money. However, the Commission's decision not to use Treasury funds to pay Katsonis's crew stemmed from a moral judgment of Katsonis and his men, rather than from a doctrinal definition of a privateer in contemporary international law.⁵⁵ Behind the Commission's differentiation between the two flotillas lay a more nuanced understanding of what constituted state service and its relationship to the common good.

The ownership structure of the flotillas – one owned by Katsonis and the other by the state – went some ways towards resolving the ambiguity of their legal rights and entitlements, but it was not the starting point of the Commission's reasoning but rather its direct consequence. The distinction was not theoretical but material, and the livelihood of hundreds hung in the balance. Despite the salience that ownership of private property acquired in Russia during Catherine's reign, even Katsonis's initial claims to ownership of his flotilla were not absolute.⁵⁶ Even if no procedure for expropriating private property existed in civil law, the Russian government had centuries of practice in mobilizing private or civilian resources for military

purposes. The process existed in several forms, from making contracts with merchants at favorable (for the government) rates for delivery of provisions or timber, to purchasing or requisitioning merchant ships for military use. In the Aegean archipelago in wartime, under the nebulous “laws of war,” Russian commanders took ships, provisions, and supplies as needed. When the local population provided these necessities willingly, they were reimbursed – often below market rate – for their property; otherwise provisions and supplies were claimed by force as if from enemy populations. The Russian government even reserved its right to employ its privateers in a military capacity in Article 22 of the Rules for Privateers. State need in wartime, legitimated by most political theories, expressed itself in the expropriation of merchant and private naval vessels for state wars in England and France just as much as in Russia. In the eyes of the Russian service elite of the late eighteenth century, morality and public service to the Russian Empire demanded personal sacrifice.⁵⁷ Nikolai S. Mordvinov, who later emerged as a liberal in absolute defense of property rights, freely recognized the government’s right to requisition Katsonis’s flotilla (which Mordvinov saw as his own) for state use in the middle of the 1787 Russian-Ottoman War.⁵⁸

The Commission recognized the confusion over the indeterminable legal status of Katsonis’s flotilla in the many requests that poured in from Katsonis’s officers and sailors who asked to receive wages, table money, and expenses for their service to the Russian state. In 1789, when the government attempted to organize the privateer flotillas sailing around the Mediterranean into a united force, Katsonis received orders to set out as head of an “imperial Russian flotilla.”⁵⁹ The government’s efforts to reorganize the flotillas and Katsonis’s new orders have been interpreted by historians as a change in Katsonis’s legal status.⁶⁰ But the idea that Katsonis’s status changed from “privateer” to “Russian officer” came from Katsonis himself. Sensing the government’s need for his services, he had apparently let the government’s favor go to his head. Refusing to follow instructions given to him by Zaborovskii and Gibbs, Katsonis boasted “he was in charge and dependent on no one.” Katsonis’s insistence that he was no longer a privateer, but rather the head of an imperial Russian squadron robbed Gibbs of means to restrain him. “Perhaps he has secret orders that he has not shared with me,” he surmised.⁶¹ Katsonis’s posturing as a Russian officer inclined potential would-be privateers to join his flotilla and creditors to lend him large sums. As later claimed in their appeals to the Commission, they truly believed that they were dealing with an agent of the Russian government. For example, in

his letters to the Commission, Lorenzo Aleandri, a captain who had previously served under the Guglielmo Lorenzi in the state flotilla, explained that Katsonis presented himself as a Russian officer, had a patent, and flew not a privateering flag but a naval ensign.⁶² Katsonis's misrepresentation of his status was likely at the root of the many requests for salaries which his former crew submitted to the Russian government as well as the similarity in the language and arguments the petitioners presented. Evidently, the Commission was confused as well, but ultimately relied on testimony provided by commanders in the field to determine that Katsonis and his crew were privateers, as reflected in the Commission's 1794 decisions. Vasili S. Tomara's memorandum on the course of events in the Archipelago, written shortly after the Treaty of Jassy was signed in 1792, supported the legal distinction between the two flotillas.⁶³ Even Zaborovskii, whose instructions were the source of Katsonis's claims to be an officer, clarified that he considered Katsonis a privateer, underscoring that the money paid by the Treasury for his vessels and his debts was intended to be repaid by Katsonis from the prizes he captured.⁶⁴

In 1795, in a letter presented to the Commission by Count Platon A. Zubov, Catherine's young favorite, Lambros Katsonis disputed the Commission's findings that his flotilla "must be considered a privateer flotilla by law." He expressed "great regret" at learning of the Commission's denial of his crew's petitions to be paid for their service. Katsonis drew a distinction – the same distinction that was later emphasized to the Commission by the General Procurator and Catherine II – that until Zaborovskii's arrival in Italy in early 1789, he was indeed a privateer.⁶⁵ However, after he was given Zaborovskii's instructions, he acted solely with military purpose. Katsonis claimed that Zaborovskii's instructions transformed him from a privateer into an officer, articulating what he saw to be the differences between privateers and state war vessels in support of this view. He emphasized this difference with his understanding of what distinguished a privateer from a military vessel: "I fought not against merchant, but military enemy vessels and even ships of the line, where I earned nothing except cannonballs, bullets, and the loss of my vessels."⁶⁶ Katsonis understood what the Russian government had, perhaps, been reluctant to recognize: that a privateer's aims differed from a country's strategic goals. He emphasized this distinction further by pointing out that were he "only a privateer," he would have no reason to operate in his assigned location or coordinate with the captain of another flotilla (that is, Lorenzi). On the contrary, he speculated that as a privateer he would cruise in

more financially lucrative places. Katsonis's second line of argument drew a distinction between military and privateer organization and obligation, where privateers did not receive military ranks and did not find themselves obliged to fit out vessels for the navy nor send reports of their battles to commanders. Nor would he be implicated in political intrigues, or have to surrender his prizes for political purposes.⁶⁷ Finally, he complained, that Russian officials treated his flotilla not as his private flotilla, but as one belonging to the state, in that they had sold off some of its vessels and transferred the rest to the Black Sea fleet.

Katsonis's arguments gained traction with the monarch herself, and in light of his assertions to be a Russian officer, the Commission was instructed to reassess its previous decisions with a new periodization of the flotilla's activities. The flotilla's activities were reclassified into three phases, each of different legal standing: in 1788, they were privateers; from 1789 until the ceasefire in 1791, they were in state service; after the peace, Katsonis acted without government authority.⁶⁸ In contravention of this instruction, the Commission determined on 21 June 1795 that Katsonis's claims that his flotilla had been appropriated by the Treasury was "entirely incorrect" (*est' sovsem ne spravedlivo*).⁶⁹ In their next report, the Commission addressed all of the warrants that Katsonis provided in support of his claims to be a Russian officer. Most cleverly, they invoked Article 22 of the Rules for Privateers, which anticipated the need for privateers to cooperate with the Russian navy as part of the service that all privateers owed to the Russian crown for authorizing their activities. In the Commission's interpretation of Article 22, Zaborovskii had every right to issue instructions to Katsonis as he was acting on Her Imperial Majesty's wishes and instructions. This broad power gave the Russian navy the right to determine the location for Katsonis's activities (which, they claimed, was the most profitable for intercepting Ottoman vessels without competition from corsairs from Malta and Sardinia). In response to Katsonis's other arguments about his obligations to report to superiors or coordinate with other flotillas, the Commission deferred to testimony from Major-General Psaro, Gibbs, and Tomara, which stated that Katsonis had never followed through on instructions to coordinate or connect with Lorenzi's flotilla, or any of the other orders issued to him by Gibbs, head of flotilla activities in the Mediterranean. In short, the Commission decided that Zaborovskii's orders were anticipated by several of the articles in the Rules for Privateers and, as a result, it stood by its decision of considering Katsonis a privateer throughout the 1787 war with the Ottoman Empire.

These conclusions, the Commission further declared, obviated any need for reassessment of its decisions in its previous cases.⁷⁰

On the basis of its earlier decision that he was a privateer, the Commission decided that the State Treasury would not be responsible for Katsonis's numerous debts.⁷¹ More extraordinarily still, the Commission upheld its decision after being rebuked by the Procurator General and the monarch for a second time and asked to reevaluate its decision once more.⁷² In its second response, the Commission emphasized that it based the decision on Russian law and on the testimony of the highest commanders of the Russian forces in the Archipelago during the war.⁷³

The Commission's findings spoke directly to the extant ambiguity between naval auxiliaries and privateers in their relationship to the Russian state. Although they operated outside of the regular structure of the armed forces, irregular troops had nevertheless been considered part of Russia's armed forces. They often operated under Russian commanders, and despite some variations, the treasury paid their salaries and provided them with ordinance and uniforms. Regardless of their special status or autonomy within the empire, in battle they contributed to the perception of Russia's conduct of war.⁷⁴ But drawing a legal and conceptual division between irregular, state-financed combatants and privateers allowed the government to distance itself from privateers' unpalatable practices. After the ceasefire with the Ottoman Empire in 1791, the value of this distinction became even more relevant. In a conference with the Reis Effendi (the Ottoman Foreign Minister), Aleksandr Khvostov the Russian Chargé d'Affaires in Constantinople was put on the spot when he was asked to explain Lambros Katsonis's continued predations on Ottoman commerce in the early months of 1792. As a transcript of the conversation suggests, Khvostov was unsure how to answer for Katsonis's actions until he was able confer with St. Petersburg as to whether Katsonis's commerce raiding was authorized. He stalled for time by insisting that, to his knowledge, there were no Russian ships of war remaining in the Mediterranean. This distinction proved important, as the Reis Effendi sought confirmation from Khvostov that Katsonis's actions were in no way supported by the Russian government.⁷⁵ The Reis Effendi asserted the Porte's rights to protect its waters and subjects against piracy – a right upon which Russia would also insist, he postulated. In response, Khvostov urged the Reis Effendi to “preserve the honor and integrity of the Russian flag” by not preying on Russian merchant ships in the Mediterranean. By the end of the conversation,

Khvostov conceded that there were no more authorized Russian vessels in the Mediterranean and the Ottoman Empire was free to use any means necessary to stop Katsonis.⁷⁶ Khvostov's insistence was affirmed by Catherine's instructions to the Commission that disavowed Katsonis's flotilla, stating that after the ceasefire it no longer had any legal standing under the protection of the Russian flag.⁷⁷

The Commission's deliberations and justifications for their decision went to the heart of the question of whether privateer activities demonstrated commitment to state service. On the moral map of the eighteenth-century Russian service nobility, state service was a calling, military rank an honor, and soldiers were zealous servicemen. Shirking service or duty, as testimony from other officers showed Katsonis to have done, robbed Katsonis of moral virtue.⁷⁸ Even plunder taken in war carried a certain moral stigma.⁷⁹ Although these were idealized values, how could the Commission – comprised of several high-ranking civil and military members of the service nobility – recognize Katsonis as one of their own? Their decision looked to Katsonis's own actions to reject his claim that he was a Russian officer. By defining him as a privateer, they explained how he could be acting in a semi-military capacity under a Russian mandate but not in accordance to Russian orders or in the spirit of Russian officers. The Commission's reasoning articulated a conceptual understanding of how privateers differed from the state navy. The decision recognized that privateers' activities may coincide with state interests, but their adherence and execution of the values that stood behind state interest – the common good – mattered too.⁸⁰

The distinction between the flotillas' status in the eighteenth century was more than a question of ownership. It hinged on a judgment of the combatants' motivation. As legal articulations of a public or common good were still in their infancy, the Commission's judgment rested on what it deemed to be the underlying purpose of Katsonis's activities.⁸¹ Only a few days after it upheld its ruling, the Commission's reasoning was accepted by the new emperor Paul and his new Procurator General of the Senate, Alexander B. Kurakin.⁸²

The Consequences of the Katsonis Verdict

For privateers

The Commission's decision in the Katsonis case made the privateers' requests for prize money to be paid to them all the more relevant and urgent as they could no longer count on state salaries or

reimbursements. Whatever skepticism existed about Katsonis's role as an officer, it did not extend to the Commission's approbation of the role privateers played in the most recent Russian-Ottoman war. The government's commitment to commending and rewarding privateers was evident from the Commission's willingness to overlook lapses in protocol and missed deadlines. Major Spiro Caliga, for instance, submitted his papers to the Commission eight months after the advertised deadline. When the Commission balked at reviewing the claim, the Procurator General urged them to proceed with the case and address the substance of Caliga's requests.⁸³ Since the privateers operated as a flotilla rather than as individual vessels, their respective captains submitted demands for each of the prizes each flotilla captured. Guglielmo Lorenzi's prize money fell outside the scope of this Commission and was instead administered by Catherine II's secretary, Vasilii S. Popov. We can only speculate about the reasons for this alternative venue, but it is likely that fewer of the prizes Lorenzi captured were contested by their original owners. More significantly, Lorenzi had reported to the prize commission in Syracuse with his catches, where the vessels and cargo were reviewed, condemned, and sold.⁸⁴ But it was Katsonis who demanded the largest prize sums and rewards from the Commission. That Katsonis frequently flouted procedure of the prize courts did not seem to prevent the Commission from evaluating his claims even while in other instances violations of protocol had changed outcomes of cases. The Commission spent the better part of the year 1797 calculating the sums owed to Katsonis and his crew, eventually arriving at a figure of nearly 600,000 rubles. It should be noted that the money was intended not for Katsonis alone, but given to him to satisfy his creditors and distribute among his crew of several hundred.⁸⁵

The government's commitment to rewarding its privateers was also evident in the charitable interpretation of the evidence Katsonis provided to support his claims to large rewards. Ultimately, the main source for Katsonis's claims was his own testimony of his successes in the battlefield, while much of the corroborating evidence - such as his ship log, ownership papers, and even many of the ships he claimed to have captured - was conveniently destroyed in his final skirmish with the Ottoman navy.⁸⁶ His largest score was the capture of the island of Zea [Kea] and its fortress, which he claimed to have done in compliance with a secret order from the deceased Prince Grigorii A. Potëmkin-Tavricheskii. While the Commission recognized that Katsonis could prove neither the provenance of the order nor verify his extended presence on the island, it considered correspondence addressed to Katsonis on the island of Kea and subsequent

mission instructions to sail from the island as substantiation of his presence on Kea. From this, the Commission reasoned that if Katsonis had been on the island, then he must have needed to take certain measures to secure it and defend his crew. From this deduction, the Commission validated Katsonis's request for reimbursement for the fortifications he built on the island. Following this pattern of reasoning, the Commission recognized the validity of Potëmkin's oral instructions.⁸⁷ In another instance, when determining payment for captured prisoners, the Commission relied on consular transactions concerning sale, ransom, and exchange of prisoners to come to a total of the number of persons from which it would reward Katsonis.⁸⁸ The Commission's willingness to accept Katsonis's claims stands in striking contrast to the rigorous analysis of other petitioners' requests for reimbursement of stolen property. Katsonis's own requests were punctuated with an impressive knowledge and understanding of the law, but even when petitioners did not reference specific statutes in their requests the Commission drew on all available legislation to guide its decisions.

For merchants

The Commission for Archipelago Affairs also served as a forum that provided merchants with legal recourse in the event of capture or maltreatment by Russian-flagged privateers. Indeed, this function of the prize court was an important component of the government's attempt to regulate the maritime violence it unleashed. The Russian government was sensitive to the impositions that war caused to neutral trade and was even more aware that authorizing privateers posed a significant risk to the Orthodox Christians sailing under Ottoman flags.⁸⁹ The delicate wording of the Rules for Privateers was designed to avoid these molestations, but the Russian government nevertheless foresaw the need for additional mechanisms to satisfy aggrieved merchants. Merchant complaints travelled through several channels and by no means did all of them end up in front of the Commission.⁹⁰ Many merchants submitted complaints to their countries' consular representatives, who in turn complained to Russian officials posted around the Mediterranean. Eventually, word of these assaults reached Vice-Admiral Gibbs, who found himself powerless to compel Katsonis to return unlawfully seized property.⁹¹ Outstanding grievances then reached the Commission for Archipelago Affairs after the end of the war, and the Commission had the authority to recognize illegally taken prizes and compel restitution or reimbursement. A Greek merchant from Livorno, for example, who showed that he had been captured in 1792, after the

end of the war, was able to successfully recoup most of his losses from the illegal capture by filing a case with the Commission.⁹²

The biggest problem for the merchants in recouping their losses, however, was that in many cases the property they sought to have returned or compensated had not been taken by force. The Commission received numerous complaints from merchants, townspeople, and businessmen who had supplied the Russian flotillas with armaments, cash for provisions and supplies, crewmembers, loans and credit, bespoke dishes and barrels, and other high-cost items.⁹³ There were dozens of complaints from merchants from Trieste, Messina, Livorno, Zante, and other places claiming to have provided credit and provisions with the expectation that either Katsonis or the Russian government would reimburse them at the end of the war.⁹⁴ In contravention to the promises and representations Katsonis made to his creditors, the Commission determined in many of these instances that it was not obliged to pay for privateers' expenses.

Although the Commission sought to distinguish between voluntary donations of money and supplies and seizures of these items by force, in actuality this distinction was misleading. The Rules forbade the capture of Christian vessels or property, a law to which numerous petitions pointed to when protesting the seizure of friendly nations' vessels and cargo, and one which the Commission upheld.⁹⁵ Certainly, many were willing to supply Russian combatants in the battle against the Ottoman Empire. However, others who wished to provide food or supplies feared Ottoman retribution for their assistance to the Russian forces. Captain Stepan P. Khmetevskii reported in his memoirs that sympathetic farmers often urged Russian forces to pretend to take provisions and livestock by force.⁹⁶ In other cases, privateers paid merchants and farmers for the produce and livestock they took, or offered a letter of credit. But as Lambros Katsonis's testimony to the Commission in response to an accusation of theft shows, Katsonis considered taking property from Ottoman subjects or on Ottoman territories as legal under the laws of war. The Commission upheld his reasoning, refusing payment for any property that was claimed by Russian irregulars by right of war.⁹⁷ Katsonis's actions suggest that merchants who did not voluntarily provision the troops might have their property seized anyway under a perfectly legal pretext.⁹⁸

In contrast, merchants who gave Katsonis or his captains money, loans, or supplies received a passport that allegedly protected them from further searches or seizures by Russian-flagged privateers for the remainder of the war. As the Commission's records show, many merchants were willing to extend credit to the privateer flotillas for a variety of reasons. Chief among them was the perceived credibility of the investment, as they were led to believe that by dealing with Katsonis they were dealing with the Russian government. Katsonis's credibility as an agent of the Russian government was only increased by his assumed power to distribute patents to privateers and travel passports to merchants. As a result, more than a few merchants found themselves disappointed by the Commission's final decisions.

Russian Maritime Law After Katsonis

Within the confines of bureaucracy and procedure, which at times restrained the decisions of the Commission of Archipelago Affairs, many have suggested that achieving justice or fairness was an impossible task. Still, the Russian government empowered this appellate-level admiralty court to resolve the deluge of merchant and privateer requests. In substance, if not in procedure, the cases were adversarial as they placed the interests of the privateers in having vessels and cargo condemned as prize against those of the merchants seeking restitution for their property. The true significance of these cases was that even though neither side could be truly satisfied, the turn to Russia's admiralty courts gave the courts legitimacy and reaffirmed their credibility as arbiters of disputes. Whichever side of the prize case they fell on, Ottoman subjects flocked to Russian admiralty courts, creating the conditions of and adding to the perception of encroachment on Ottoman sovereignty that lay at the heart of the Eastern Question.

Russia's active use of the law of nations as a basis for its relationships with the denizens of the Eastern Mediterranean provides new insight into the Russian-Ottoman confrontation. Most analyses of these relationships look to Articles VII and XIV of the 1774 Treaty of Küçük-Kaynarca, the interpretation of which by the middle of the nineteenth century mutated into claims of protection over all Christians in the Ottoman Empire.⁹⁹ However, this bilateral treaty was not the only basis for Russia's relationship with Orthodox Christian communities in the Ottoman Empire. Other international norms provided a legal basis for this relationship. And the relationship was not unidirectional. Appeals by Ottoman subjects, former Ottoman subjects, and other mariners in the Mediterranean to the Russian government for a legal recourse made a

powerful statement about the legitimacy of legal institutions and the search for justice through the Russian Empire. Many privateers sought out the Russian legal system to reward them for their service and many aggrieved merchants went directly to the Russian admiralty courts to seek restitution for their property. Although Russian admiralty courts, at times, made decisions which weighed against Russia's short-term or financial interests, it is notable that Russia's admiralty courts became a central mechanism by which individuals and groups asserted their interests and received legal standing irrespective of the outcome. The cases in front of the Commission reflected different conflicts evident in the Mediterranean – conflicts that did not always fall across national and religious lines, but rather across social or socioeconomic lines. It is fitting that the Russian Admiralty Commission should have been called upon to resolve these tensions as it was Russia's maritime legal politics that created them in the first place.

The Commission for Archipelago Affairs established important precedents for the practice of Russian admiralty law. The ambiguity of Katsonis's standing in Russian service compelled the commission to confront (and accept) certain realities in commissioning privateers. For one thing, the Russian admiralty no longer seemed conflicted about their motivations. Having decided that a privateer's status had more to do with his financial motivations than the relationship to the state, the Russian commission elided the debates in other parts of Europe about the morality of privateering.¹⁰⁰ In 1854, when moral outrage combined with political expediency to compel the first international agreements to abolish privateering, the Russian navy looked to its previous experiences with Katsonis and other privateers in an effort to organize new fleets to assist with commerce raiding in the Crimean War.¹⁰¹ Russian consular officials and naval commanders recruited privateers in naval campaigns throughout the first half of the nineteenth century, but to my knowledge none of these recruits were Russian subjects. In fact, in response to a proposal at the height of the Napoleonic Wars to permit Russian subjects to sail as privateers, the Admiralty College vetoed the proposal.¹⁰² Privateers recruited in the 1806-1807 Mediterranean campaign received less favorable prize payouts than the privateers of the 1787 war received. Naval officers, on the other hand, saw their financial prospects from seizing merchant ships improve dramatically in 1806 with the passage of a new comprehensive prize law.

The decisions of the Commission for Archipelago Affairs demonstrate the difficulties of using European conventions of prize law to understand Russian practice of privateering.

Adopting common European practices required reconciliation with Russian laws and practices more than those who see international law as universal would have us believe. The imperial Russian jurist Fedor F. Martens believed international law to be an essential component of Russia's Europeanization.¹⁰³ Like other theoreticians and practitioners of international law in the late nineteenth-century, Martens saw international law as a civilizing process, comparable to that which Russia had undergone through the forceful will of Peter the Great.¹⁰⁴ Martens' view of Russian sovereigns' willing engagement with ideas of the law of nations is at odds with much recent scholarship on the relationship between imperialism and the development of modern international law. The third-world critique of international law, for instance, demonstrates the inherent unevenness and biased categories within which international law operates, challenging the anodyne view of international law among its first proponents and many practitioners today.¹⁰⁵ But what of states like Russia that willingly engaged in a legal discourse with Europe to better and secure their positions in international society? Whatever the role of law inside Russia, the empire used European legal norms to empower its subjects and institutions. It tried to protect these principles by encoding them in its own legislation and upheld them in its own legal system. Russian elites perpetuated these ideas and spread them to new geographic locales. Through their application to international legal norms, both the empire's elites and its subjects showed that they understood the malleability of these norms and their power to advance their own interests. Whatever the eighteenth- and nineteenth-century foreign observers wrote of Russia's legal institutions, through its practices the Russian Empire demonstrated that it understood much about the European law of nations and its advantages in helping Russia achieve its imperial aims.

¹ Georg Friedrich de Martens, Essai Concernant Les Armateurs, Les Prises et Sur Tout Les Reprises (Gottingue: Jean Chretien Dieterich, 1795).

² References and quotations in this article will be made to the 1801 English translation, Georg Friedrich de Martens, An Essay on Privateers, Captures, and Particularly on Recaptures, according to the Laws, Treaties, and Usages of the Maritime Powers of Europe, trans. Thomas Hartwell Horne (London: Sewell, Cornhill, and Hatchard, 1801), xi, xiv–xv.

³ *Ibid.*, v–vi; Henry Wheaton, A Digest of the Law of Maritime Captures and Prizes (New York: R. M'Dermut & D.D. Arden, 1815), iii. For an overview of the eighteenth-century legal disputes surrounding privateering, see Stephen C. Neff, The Rights and Duties of Neutrals (New York: Juris, 2000); Carl J. Kulsrud, Maritime Neutrality to 1780: A History of the Main Principles Governing Neutrality and Belligerency to 1780 (Boston: Little, Brown, & Co., 1936); Tara Helfman, "Commerce on Trial: Neutral Rights and Private Warfare in the Seven Years' War," COLLeGIUM: Studies across Disciplines in the Humanities and Social Sciences 10 (2011): 14–41; Richard Pares, Colonial Blockade and Neutral Rights, 1739-1763 (Oxford: Clarendon Press, 1938); Isabel de Madariaga, Britain, Russia, and the Armed Neutrality of 1780 (New Haven: Yale University Press, 1962), chapter 3.

⁴ Appendices 7 and 8 in David J. Starkey, British Privateering Enterprise in the Eighteenth Century (Exeter: University of Exeter Press, 1990), 322–3.

⁵ Kevin Arlyck, “Forged by War: The Federal Courts and Foreign Affairs in the Age of Revolution” (Ph.D. Dissertation, New York University, 2014), 286–326; Henry J. Bourguignon, The First Federal Court: The Federal Appellate Prize Court of the American Revolution, 1775-1787 (Philadelphia: American Philosophical Society, 1977); Henry J. Bourguignon, Sir William Scott, Lord Stowell: Judge of the High Court of Admiralty, 1798-1828 (Cambridge: Cambridge University Press, 1987), 115–171.

⁶ Patrick Crowhurst, The French War on Trade: Privateering 1793-1815 (Aldershot: Scolar, 1989), 1–29; Richard E. Winslow III, “Wealth and Honour”: Portsmouth During the Golden Age of Privateering, 1775-1815 (Portsmouth, NH: Portsmouth Marine Society, 1988), 24–31, 52–63, 131–140.

⁷ Bourguignon, Sir William Scott, Lord Stowell, 116 n.2.

⁸ Matthew McCarthy, Privateering, Piracy and British Policy in Spanish America 1810-1830 (Woodbridge: Boydell Press, 2013), 23–45; Kevin Arlyck, “Plaintiffs v. Privateers: Litigation and Foreign Affairs in the Federal Courts, 1816-1822,” Law and History Review 30, no. 1 (February 2012): 245–78.

⁹ W.E. Butler, “On the Origins of International Legal Science in Russia,” Journal of the History of International Law 4, no. 1 (January 2002): 1–41; Lauri Mälksoo, “The History of International Legal Theory in Russia: A Civilizational Dialogue with Europe,” European Journal of International Law 19, no. 1 (February 2008): 211–32. In his recent book Mälksoo argues that it was only in the Soviet period that Russia adopted a critical approach to the universalism of western international law. See his Russian Approaches to International Law (Oxford: Oxford University Press, 2015), 4-8. Vladimir E. Grabar’s comprehensive volume on international law in imperial Russia is an indispensable guide to Russian legal doctrine, but focuses on published texts of jurists and translation of Western scholarship rather than an insight into the practices of imperial Russian courts. Although the question of privateers appears several times throughout the text, there is no mention of the Commission of Archipelago Affairs. V. E. Grabar, The History of International Law in Russia, 1647-1917: A Bio-Bibliographical Study, trans. William Elliott Butler (Oxford: Clarendon Press, 1990).

¹⁰ As my focus is on judicial institutions and admiralty jurisdiction rather than state-sanctioned commerce raiding, I differentiate eighteenth-century Russian privateers from the seventeenth-century amphibious raiders on the northern shores of the Black Sea. While these Cossack raids were often sanctioned by the Muscovite state, their activities did not receive the legal approbation that admiralty courts provide for plunder taken by privateers. Peter the Great’s Naval Statute of 1720 (Morskoi Ustav) briefly mentioned privateers and there is some evidence to suggest privateers may have been commissioned during the Northern War (I thank Simon Franklin for bringing this to my attention). However, none of these were instructive to the Russian government in the late eighteenth century and they do not match the scale on which privateers were used in Catherine II’s wars. For an elaboration of this argument, see Julia Leikin, “Prize Law, Maritime Neutrality, and the Law of Nations in Imperial Russia, 1768-1856” (Ph.D. Dissertation, University College London, 2016), chapter 2.

¹¹ The scholarship on privateering, particularly in England, is large. For an excellent discussion of the literature and its different themes, see David J. Starkey, “Voluntaries and Sea Robbers: A Review of the Academic Literature on Privateering, Corsairing, Buccaneering and Piracy,” The Mariner’s Mirror 97, no. 1 (January 2011): 127–47; N.A.M. Rodger, “The Law and Language of Private Naval Warfare,” The Mariner’s Mirror 100, no. 1 (2014): 5–16; Alfred P. Rubin, The Law of Piracy (Honolulu: University Press of the Pacific Honolulu, 2006); Daniel Heller-Roazen, The Enemy of All: Piracy and the Law of Nations (New York: Zone Books, 2009). For other historical contexts, see Virginia Lunsford, Piracy and Privateering in the Golden Age Netherlands (Basingstoke: Palgrave Macmillan, 2005); Jon Latimer, Buccaneers of the Caribbean: How Piracy Forged an Empire (Cambridge: Harvard University Press, 2009); Molly Greene, Catholic Pirates and Greek Merchants: A Maritime History of the Mediterranean (Princeton: Princeton University Press, 2010).

¹² Martens, An Essay on Privateers, 1–35. For a contemporary evocation of this argument, see N. A. M. Rodger, “The New Atlantic: Naval Warfare in the Sixteenth Century,” in War at Sea in the Middle Ages and the Renaissance, ed. John B. Hattendorf and Richard W. Unger (Woodbridge: Boydell Press, 2003), 233–47. The ambiguities of the distinction in public and private warfare are discussed in Mercenaries, Pirates, Bandits and Empires: Private Violence in Historical Context, ed. Alejandro Colás and Bryan Mabee (New York: Columbia University Press, 2010).

¹³ J. H. W. Verzijl, International Law in Historical Perspective: The Law of Maritime Prize, (The Hague: Martinus Nijhoff, 1979), 152–171.

¹⁴ For a discussion of the debate over private property in imperial Russia see Ekaterina Pravilova, A Public Empire: Property and the Quest for the Common Good in Imperial Russia (Princeton: Princeton University Press, 2014), 1–18. As Pravilova shows it is precisely at the end of Catherine II's reign at the turn of the nineteenth century when the distinction between state and private ownership was articulated in the Russian Empire. Also see Richard Pipes, "Private Property Comes to Russia: The Reign of Catherine II," in Cultures and Nations of Central and Eastern Europe: Essays in Honor of Roman Szporluk, ed. Zvi Gitelman et al. (Cambridge, MA: Harvard Ukrainian Research Institute, 2000), 431–42.

¹⁵ The literature documenting Russian political and military ties with Greek and Slavic peoples of the Balkans is vast. This short list is intended to be representative rather than exhaustive. I. I. Leshchilovskaia, Serbskii Narod i Rossiia v XVIII veke (St. Petersburg: Aleteia, 2006); Stephen K. Batalden, Catherine II's Greek Prelate: Eugenios Voulgaris in Russia, 1771-1806 (Boulder: East European Monographs, 1982); Nicholas Charles Pappas, Greeks in Russian Military Service in the Late Eighteenth and Early Nineteenth Centuries (Thessaloniki: Institute for Balkan Studies, 1991); Prousis, Russian Society and the Greek Revolution (DeKalb: Northern Illinois University Press, 1994); G.L. Arsh, Rossiia i bor'ba Gretsii za osvobozhdenie: ot Ekateriny II do Nikolaia I [Russia and Greece's War for Liberation: From Catherine II to Nicholas I] (Moscow: Indrik, 2013).

¹⁶ On this see Franco Venturi, The End of the Old Regime in Europe, 1768-1776: The First Crisis, trans. R. Burr Lichfield (Princeton, 1989), 23-73; I. M. Smilianskaia, E. B. Smilianskaia, and M. B. Velizhev, Rossiia v Sredizemnomor'e [Russia in the Mediterranean] (Moscow: Indrik, 2011), 29-84; Nicholas Charles Pappas, Greeks in Russian Military Service in the Late Eighteenth and Early Nineteenth Centuries (Thessaloniki: Institute for Balkan Studies, 1991), 65-94.

¹⁷ See I. M. Smilianskaia, "Politicheskaia intriga Ekateriny II v Egipte v voynu 1787-1791 gg: Konrad Tonus," in I. M. Smilianskaia, et al., Rossiia v Sredizemnomor'e, 729-44; Mitia Frumin, "Why Did a Russian Privateer Present the Ottoman Governor of Acre with a Prized Ship?" in Seapower, Technology and Trade: Studies in Turkish Maritime History (Istanbul: Piri Reis University, 2012), 310-16.

¹⁸ Pappas, Greeks in Russian Military Service, 86-8. For a closer look at the career trajectory of Anton Psaro, see I. M. Zakharova, "Anton Konstantinovich Psaro," Voprosy istorii no. 11 (November 2015): 19-33.

¹⁹ Mocenigo's instructions to Captain Christodoulo Sapuntsoglu, 25 January 1787, RGAVMF F.150 op.1 d.90 ll.41-3ob.; Peter Psoma's petition to Commission for Archipelago Affairs, July 1794, RGAVMF F.150 op.1 d.31 ll.2-3.

²⁰ Manifestos to call Moldavian, Greek, Slovenian and Serbian peoples to arms, 19 February 1788, RGADA F.15 op.1 d.226 ll.1, 3, 5, 8.

²¹ Standard narratives of Russian foreign policy include Barbara Jelavich, St. Petersburg and Moscow: Tsarist and Soviet Foreign Policy, 1814-1974 (Bloomington: Indiana University Press, 1974); idem, Russia's Balkan Entanglements, 1806-1914 (Cambridge: Cambridge University Press, 1991); M. S. Anderson, The Eastern Question, 1774-1923 (London: Macmillan, 1966), 392-3. Soviet historiography has tended to downplay the importance of religious ties, highlighting instead the economic and strategic benefits of Russian policy. For examples of materialist conceptions of the problem see Elena I. Druzhinina, Kiuchuk-Kainardzhiskii mir 1774 goda: ego podgotovka i zakliuchenie [The Peace of Kuchuk-Kainardzhi of 1774: its preparation and ratification] (Moscow: Akademiia nauk, 1955); idem, Severnoe prichernomor'e v 1775-1800 gg. [The Northern Shores of the Black Sea, 1775-1800] (Moscow: Akademiia nauk, 1959).

²² This type of constructivist argument seen in recent scholarship is different from the Soviet Balkanists' assertions of Russian support for national liberation movements. For example of recent scholarship on indirect Russian influence on construction of national identity see Victor Taki, "The Russian Protectorate in the Danubian Principalities, in Russian-Ottoman Borderlands: The Eastern Question Reconsidered, eds. Lucien Frary and Mara Kozelsky (Madison: University of Wisconsin Press, 2014), 35-72; and Vasilis Molos, "Nationness in the Absence of a Nation: Narrating the Prehistory of the Greek National Movement" (Ph.D. Dissertation, New York University, 2014).

²³ On the relationship between routine administrative practices and sovereignty see Lauren Benton, A Search for Sovereignty: Law and Geography in European Empires, 1400-1900, (Cambridge: Cambridge University Press, 2010), chapter 3; Lauren Benton and Benjamin Straumann, "Acquiring Empire by Law: From Roman Doctrine to Early Modern European Practice," Law and History Review 28, no. 1 (2010), 1-38; on sovereignty as claims-making, see James Sheehan, "The Problem of Sovereignty in European History," American Historical Review 111, no. 1 (2006): 1-15.

²⁴ For a discussion of the importance of the ambiguous status of the North African corsairs to prize cases see Lauren Benton, Lauren Benton, “Legalities of the Sea in Gentili’s *Hispanica Advocatio*,” in *The Roman Foundations of the Law of Nations: Alberico Gentili and the Justice of Empire*, ed. Benedict Kingsbury and Benjamin Straumann (Oxford: Oxford University Press, 2010), 269–82. For a general discussion of the relationship of political affiliation and sovereignty to piracy, see Sebastian R. Prange, “A Trade of No Dishonor: Piracy, Commerce, and Community in the Western Indian Ocean, Twelfth to Sixteenth Century,” *American Historical Review* 116, no. 5 (2011): 1269–93; Benton, *A Search for Sovereignty*, 120-137; Heller-Roazen, *The Enemy of All*, 37-8.

²⁵ Martens noted that the first sea-beggars armed with letters of marque from the rebelling Dutch provinces were punished as pirates while privateers from the rebelling American colonies were soon treated as lawful enemies by Great Britain. *Essay on Privateers*, 25-6, 38-9.

²⁶ Panin to Chernyshev, 20 February 1769, *Sbornik Imperatorskago Russkago Istoricheskago Obshchestva* (hereafter, SIRIO), 87 (1893): 334. A blank patent was drawn up presumably based on Chernyshev’s response – available in a published collection - but I have seen no manuscript or signed copies of this document in the archival collections pertaining to the 1768-1774 war. The patent can be found in *Materialy dlia Istorii Russkogo Flota*, [Materials for the History of the Russian Navy] (hereafter MIRF) ed. F. F. Veselago, 17 vols. (St. Petersburg, 1886), 11: 385-6.

²⁷ See J. S. Bromley, *Corsairs and Navies, 1660-1760* (London: Hambledon, 1987); Eric Schnakenbourg, “A Challenge to State Authority: Controlling French Privateers’ Violence towards Neutrals in the late 17th and 18th Century,” *Forum Navale* 70 (2014): 16-39.

²⁸ For a discussion of the French practices of privateering, see Halvard Leira and Benjamin de Carvalho, “Privateers of the North Sea: At Worlds End--French Privateers in Norwegian Waters,” in *Mercenaries, Pirates, Bandits, and Empires: Private Violence in Historical Context*, ed. Alejandro Colás and Bryan Mabee (New York: Columbia University Press, 2010), 55–82.

²⁹ Britain’s ability to successfully regulate its privateers is the central position taken by David J. Starkey in *British Privateering Enterprise in the Eighteenth Century* (Exeter: University of Exeter Press, 1990), although now considerable evidence inveighs against this conclusion. I argue that although Russia’s privateering practices were modeled on the British example, Russia could not have successfully regulated its privateers due to the fundamental contradiction between their motivation for privateering and the restrictions imposed by Russia on the vessels they were entitled to capture. In essence, in the eighteenth century Britain’s allowances on seaborne commerce raiding were more predatory than Russia’s. Also see Eric Schnakenbourg, “A Challenge to State Authority” on France’s efforts to control the actions of privateers.

³⁰ “Pravila dlia partikuliarnykh korsarov” *Polnoe Sobranie Zakonov Rossiiskoi Imperii* [Complete Collection of Law of the Russian Empire] (hereafter PSZ) 16,599, 31 December 1787.

³¹ On the provenance of the “Eastern Question” see the introductory essay in Lucien J. Frary and Mara Kozelsky, eds., *Russian-Ottoman Borderlands*, 3-33; Alexander Bitis, *Russia and the Eastern Question: Army, government and society, 1815-1833* (Oxford: Oxford University Press, 2006), 1-14; M.S. Anderson’s *The Eastern Question* makes a case for the 1774 Russian-Ottoman peace treaty as the origins of the Eastern Question, while I. M. Smilianskaia, et al. see the First Archipelago Expedition (1769-1774) as a concrete first step to Russian involvement in the Mediterranean and Balkan region. See I.M. Smilianskaia, et al., *Rossiiia v Sredizemnomor’e*, 1-26.

³² For Russia’s stance on neutral commerce see Isabel de Madariaga, *Britain, Russia, and the Armed Neutrality of 1780* (New Haven: Yale University Press, 1962).

³³ Irregular naval forces in the 1768-1774 Russian-Ottoman War generally did not receive any additional rewards beyond their salary. Those who were considered volunteers did not even collect that. This “oversight” was the subject of many petitions submitted to Catherine II in the 1770s and 1780s, held in RGADA F. 10, op. 1 dd. 644, 645, 676.

³⁴ On separate deals, see Eric Lohr, *Russian Citizenship: From Empire to Soviet Union* (Cambridge: Harvard University Press, 2012), 2. For an account of British subjects in Russian service, see Anthony Cross, *By the Banks of the Neva: Chapters from the Lives and Careers of the British in Eighteenth-Century Russia* (Cambridge: Cambridge University Press, 1996), 183–223. Many British subjects in Russian service negotiated contracts that included a separate schedule for the allocation and distribution of prize money. See Leikin, “Prize Law,” 78-9.

³⁵ I thank Elena Smilianskaia for bringing John Elphinstone’s separate prize money terms to my attention. The contracts concluded with Bernardino Bernardini, Georgi Mikhaili, and Matvey Rossi can be found in RGADA F. 21 op. 1 d. 86 ll.187-187ob.

³⁶ On the porosity and blurriness of the “public-private” distinction in questions of force, see essays in Mercenaries, Pirates, Bandits and Empires, ed. Colás and Mabee. The legal case I describe was the historical moment when the distinction between the state navy and privateers was articulated. As a matter of historical fact, this distinction had very real implications.

³⁷ M. S. Anderson, “Russia in the Mediterranean, 1788-1791: A Little-Known Chapter in the History of Naval Warfare and Privateering,” The Mariner’s Mirror 45, no. 1 (1959), 34. Katsonis bragged to Potemkin that his activities prevented the Ottoman Empire from diverting forces from the Archipelago to the Black Sea, choosing instead to send eighteen vessels after him, Katsonis to Potemkin, 30 October 1788, MRF 13: 395.

³⁸ Anderson, “Russia in the Mediterranean,” 25–26. Russia also made political overtures towards the bey of Egypt in the 1787 war, see I. M. Smilianskaia, “Politicheskaia intriga v Egipte v voynu 1787-1791 gg.: Konrad Tonus” in Smilianskaia, et al., Rossii v Sredizemnomore, 729–744.

³⁹ Samuel Gibbs to A.A. Bezborodko, 11 August 1789, MRF 13: 569-70. For an overview of Lorenzi’s career, see Liam Gauci and Mitia Frumin, “Nachal’nik eskadry Eia I. V. v Sredizemnom more: Materialy k biografii mal’tiiskogo korsara Gugl’el’mo Lorentsi” [Head of Her Imperial Majesty’s Squadron in the Mediterranean Sea: Biographical materials on the Maltese corsair Guglielmo Lorenzi] in Le Siècle des Lumières V, ed. S. Ia. Karp (Moscow: Nauka, 2015): 212-236.

⁴⁰ Estimates of Katsonis’s flotilla and crew in 1789 campaign are given in Iu. D. Priakhin, Lambros Katsonis: lichnost’, zhizn’ i deiatel’nost’, arkhivnye dokumenty (St. Petersburg: Petropolis, 2011), 139. These two flotillas will be discussed below. For contemporary summary, see Vasilii Tomara’s memorandum in Arkhiv Grafov Mordvinovykh, ed., V.A. Bilbasov (St. Petersburg, 1901) 10 vols. [Archive of the Counts Mordvinov] (hereafter AGM) 2: 369-73. The organization and operations of the flotillas also discussed in M. S. Anderson, “Russia in the Mediterranean”. For an example unfavorable opinion of Katsonis in the Russian military and naval leadership, see Samuel Gibbs to A.A. Bezborodko, 11 August 1789, RGAVMF F. 150 op. 1 d. 97 ll.194ob-201ob., and G. A. Grebenshchikova, Rossiiskie flotilii v Sredizemnom more i morskaiia politika Rossii pri Ekaterine II [Russian Flotillas in the Mediterranean Sea and Russia’s Naval Politics under Catherine II] (St. Petersburg: Ostrov, 2014).

⁴¹ Pierre Frammery to Spiridon Varucca, 28 November 1788, RGADA F. 1261 op. 1 d. 715 l. 1.

⁴² The regular appellate-level court for the navy would be the Fourth Department of the Senate, but from my cursory examination of the Fourth Department’s cases during and after this war, it does not appear that any appeals ended up in front of the Senate. There were, however, many appeals to the Senate and other central governing bodies regarding prize matters in the nineteenth century.

⁴³ Memorandum on membership of the Commission, RGAVMF F. 150 op. 1 d. 99 l. 4

⁴⁴ Catherine II to A.N. Samoilov, RGAVMF F. 150 op. 1 d. 99 l. 3

⁴⁵ A.N. Samoilov to von Dessen, 2 May 1794 and Catherine II to A.N. Samoilov, 7 April 1794, RGAVMF F. 150 op. 1 d. 99 ll. 1ob, 3.

⁴⁶ Even in Russia’s absolutist system where the autocrat’s word was law there were hierarchies in the force of law of different sources of law. See Oleg Omel’chenko, Kodifikatsiia prava v Rossii v period absolutnoi monarkhii [Codification of Laws in Russia in the Era of Absolutism] (Moscow: RIO VIUZI, 1989), 1-12.

⁴⁷ Richard Wortman, Scenarios of Power: Myth and Ceremony in Russian Monarchy (Princeton: Princeton University Press, 1995), 2: 40-72; Cynthia H. Whittaker, Russian Monarchy: Eighteenth-Century Rulers and Writers in Political Dialogue (DeKalb: Northern Illinois University Press, 2003), 102-118; Isabel de Madariaga, Russia in the Age of Catherine the Great (New Haven: Yale University Press, 1981), 151-183; Simon Dixon, Catherine the Great (New York: Ecco, 2009), 156-183.

⁴⁸ The Commission had a clear understanding of what it considered to be within its purview and what they felt fell outside their jurisdiction. On several occasions the Commission claimed that it could not resolve a case because it fell outside of the scope of the Commission’s powers. See for example the Commission’s response to Anton Zena’s request to be resettled and awarded land in Russia’s south and a permanent position in the Black Sea fleet in RGAVMF F.150 op. 1 d. 49, and the Commission’s response to Lieutenant Ivan Mustaki’s efforts to reclaim his brother’s effects from Venice in RGAVMF F. 150 op.1 d. 68 l. 14-14ob.

⁴⁹ Copies in French, Italian, and Greek are held in RGAVMF F. 150 op. 1 d. 109.

⁵⁰ Many of the requests for payment and compensation from the “public” flotilla headed by Lorenzi ended up in RGADA F. 10 op. 1 d. 676 (Catherine’s Cabinet) and RGADA F. 21 op. 1 d. 86 (Papers of Vasilii Stepanovich Popov).

⁵¹ G.A. Grebenshchikova, Iu. D. Priakhin, and M.S. Anderson mention the Commission in passing in their discussions of the privateers. See Grebenshchikova, Rossiiskie flotilii; A. Gertsos, I. Nikolopulous, Iu.D. Priakhin, Radi ustanovleniia istiny (St. Petersburg: Gangut, 2013); Anderson, “Russia in the Mediterranean, 1788-1791.” The Rules for Privateers, on which the Commission based its decisions, received slightly more passing mention in legal literature, but little examination as to their interpretation. In fact, Dmitrii Kachenovskii, one of the first Russian jurists to write on prize law, was on the whole dismissive of Russia’s privateering enterprise. See D. I. Katchenovskii, Prize Law Particularly with Reference to the Duties and Obligations of Belligerents and Neutrals, trans. Frederic Thomas Pratt (London: Stevens, 1867), 11, 68.

⁵² M.A. Zemlianichenko, Livadiia doimperatorskaia: ot otvazhnogo korsara Katsonisa do pol’skogo aristokrata Pototskogo [Pre-Imperial Levadia: from the brave privateer Katsonis to the Polish aristocrat Pototcki] (Simferopol’: Biznes-Inform, 2010): 8-13; A.B. Shirokorad, Admiraly i korsary Ekateriny Velikoi: zvezdnyi chas russkogo flota [Admirals and Privateers of Catherine the Great: The Heroic Hour of the Russian Navy] (Moscow: Veche, 2006); idem, Russkii piraty [Russian Pirates] (Moscow: Vagrius, 2007); N. V. Skritskii, Korsary Rossii [Russian Privateers] (Moscow: Tsentrpoligraf, 2007).

⁵³ There is no mention of prize courts in recent scholarship on imperial Russian foreign policy, but late imperial Russian jurists and historians noted the roles of diplomats and consuls on prize commissions. See V.N. Aleksandrenko, Russkie diplomaticheskie agenty v Londone v XVIII v. [Russian Diplomatic Agents in London in the 18th Century] (Warsaw, 1897), 304-6.

⁵⁴ The case of Major Lefteri Ziguri, RGAVMF F. 150 op. 1 d. 17 l. 280.

⁵⁵ Compare, for example, with Georg Friedrich Martens’s term particuliers translated as “private individuals” in the 1801 English translation of An Essay on Privateers, 1-2. The Russian legislation that guided the Commission used a cognate of the French but most certainly without the liberal meaning. The problem of the individual and problematic emergence of a private sphere is well known in Russian historiography. For studies concerning this period see Julia Berest, The Emergence of Russian Liberalism: Alexander Kunitsyn in Context, 1783-1840 (Basingstoke: Palgrave Macmillan, 2011); Derek Offord, Portraits of early Russian liberals: a study of the thought of T.N. Granovsky, V.P. Botkin, P.V. Annenkov A.V. Druzhinin and K.D. Kavelin (Cambridge: Cambridge University Press, 1985); John Gooding, “The Liberalism of Michael Speransky,” Slavonic and East European Review 64, no. 3 (1986): 401-44; Derek Offord, Nineteenth-Century Russia: Opposition to Autocracy (Harrow: Longman, 1999); Gary M. Hamburg, Boris Chicherin and early Russian liberalism, 1828-1866 (Stanford: Stanford University Press, 1992). See Pravilova, A Public Empire for an alternative reading of the public and private in Russia.

⁵⁶ See note 14.

⁵⁷ Elise Wirtschafter’s study of the morality of public service among the elite is valuable to contextualizing the Commission’s reasoning. See The Play of Ideas in Russian Enlightenment Theater (DeKalb: Northern Illinois University Press, 2003), especially chapters 4-5. On the service ethos and loyalty of the Russian military intelligentsia, see John Keep, Soldiers of the Tsar: Army and Society in Russia, 1462-1874 (Oxford: Clarendon Press, 1985), 231-249; and E. M. Lupanova, Ofiterskii korpus russkogo flota: norma i deviatsiia povsednevnoi zhizni, 1768-1812 (St. Petersburg: Lema, 2011).

⁵⁸ N.S. Mordvinov to A.S. Mordvinov, 17 May 1792, AGM 1: 512-3. Mordvinov’s dispute with Katsonis is tangential to this story, but it was Mordvinov and several colleagues who staked Katsonis the funds and arranged for a patent to privateer in the Eastern Mediterranean during the 1787 war. See Russian State History Archive (hereafter RGIA) F. 994 op. 2 d. 26 ll. 56-8.

⁵⁹ Zaborovskii’s orders to Katsonis, 20 March 1789, AGM 1: 489-494.

⁶⁰ Priakhin, Lambros Katsonis, 50-1, 59; Grebenshchikova, Rossiiskie flotilii, 93.

⁶¹ Gibbs to Bezborodko, 11 August 1789, MIRF 13: 567.

⁶² RGAVMF F. 150 op. 1 d. 43 ll. 133ob-134.

⁶³ Zapiska o delakh flotilii v Arkhipelage [On the activities of the flotillas in the Archipelago] AGM 2: 369-73.

⁶⁴ RGAVMF F. 150 op. 1 d. 34 ll. 135-7.

⁶⁵ Here, Katsonis refers to the arrival of Lieutenant-General Ivan Zaborovskii in Trieste in late 1788. On the eve of Zaborovskii’s arrival Katsonis had fallen out with another agent of the Russian government and landed in jail. Zaborovskii smoothed the situation over, paid Katsonis’s debts, arranged for credit to fit out Katsonis’s flotilla and handed him the aforementioned instructions. Contrasting views of this incident are presented in Priakhin, Lambros Katsonis, chapter 2 and Grebenshchikova, Rossiiskie flotilii.

⁶⁶ Katsonis to Zubov, April 1795, AGM 2: 441

⁶⁷ *Ibid.*, 445-6. The last point refers to orders given to Katsonis, for a theory of the political connotations of this request, see Frumin, “Why Did a Russian Privateer Present the Ottoman Governor of Acre with a Prized Ship?”

⁶⁸ RGAVMF F.150 op. 1 d.34 ll.190ob-191.

⁶⁹ RGAVMF F.150 op. 1 d.34 l. 283ob.

⁷⁰ RGAVMF F.150 op. 1 d. 34 ll. 285-291.

⁷¹ RGAVMF F.150 op. 1 d. 34 l. 427.

⁷² Given the Commission’s controversial reasoning in its opinion in June 1795, it is odd that this rebuke had arrived over one year later, on 30 November 1796. It is likely there is a gap in the historical record, but it does not detract from the controversy between the crown and the commission. It is also possible that Samoilov had fallen behind in his reviews for personal reasons because he was removed from his post as Procurator General in December 1796.

⁷³ RGAVMF F. 150 op. 1 d. 34 ll.682-693.

⁷⁴ Marian Füssel, “‘Féroces et Barbares?’ Cossacks, Kalmyks and Russian Irregular Warfare During the Seven Years’ War,” in *The Seven Years’ War: Global Views*, eds., Mark Danley and Patrick Speelman (Leiden: Brill, 2012), 243–61.

⁷⁵ RGAVMF F. 150 op. 1 d. 34 ll. 271-272 ob. This document had been translated into Russian. Throughout the translator uses the word *korser* to describe Katsonis. This document supports the view that Ottoman Turkish did not recognize the legal distinction between pirate and privateer because the term appears in seemingly contradictory connotations, where Katsonis is represented as both an illegitimate *korser* and as a *korser* sanctioned by the Russian government. Other documents from the Porte in this period, however, suggest that the Ottoman Empire accepted European privateers as legitimate combatants. Also see Michael Talbot, “Ottoman Seas and British Privateers,” in *Well-Connected Domains: Towards an Entangled Ottoman History*, ed. Pascal W. Firges et al. (Leiden: Brill, 2014), 54–70.

⁷⁶ RGAVMF F. 150 op. 1 d. 34 l. 273ob.

⁷⁷ The implication here may have extended beyond whether the Russian government sanctioned piracy against the Ottoman Empire. As many of Russian privateers were at one time Ottoman *reaya* (Ottoman tax-paying subjects), their predation on Ottoman commerce was tantamount to treason and punishable by execution. As Russian subjects they may have been covered by prisoner-of-war agreements, but as Ottoman traitors they were liable to execution. As Will Smiley shows, many captured privateers made whatever arguments they could to claim a foreign subjecthood. Their claims to be Russian officers may have been partially motivated by this legal protection. See Will Smiley “‘When Peace Is Made, You Will Again Be Free,’: Islamic and Treaty Law, Black Sea Conflict, and the Emergence of ‘Prisoners of War’ in the Ottoman Empire, 1739-1830” (Ph.D., University of Cambridge, 2012), 170; *idem*, “‘After being so long Prisoners, they will not return to Slavery in Russia’: An Aegean Network of Violence Between Empires and Identities,” *The Journal of Ottoman Studies*, XLIV (2014): 225-6.

⁷⁸ On the importance of state service for the nobility see Marc Raeff, *Origins of the Russian Intelligentsia: The Eighteenth-Century Nobility* (New York: Harcourt, Brace & World, 1966), 14-121. Wirtschafter, *Play of Ideas*, 89-100; 115-146; E. N. Marasina, *Vlast’ i lichnost: ocherki russkoi istorii XVIII veka* (Moscow: Nauka, 2008), 226-253. Marasina’s study also argues that even the process of correspondence was an essential component of duty, adding further weight to the Commission’s finding that Katsonis had neglected his duty.

⁷⁹ Wirtschafter, *Play of Ideas*, 94-95. The service nobility was not averse to high rewards bestowed on the deserving, but Russia’s prize laws at the time paid state naval officers paltry sums. The language used in the nineteenth-century prize laws equated prize money with honor, suggesting that there was some residual doubt about the moral legitimacy of this source of capital.

⁸⁰ On the common good, see Wirtschafter, *The Play of Ideas*, Chapter 5; Whittaker, *Russian Monarchy*, 38-40; *idem*, “The Reforming Tsar: The Redefinition of Autocratic Duty in Eighteenth-Century Russia,” *Slavic Review* 51, no. 1 (Spring 1992): 77-98.

⁸¹ On the development of a legal position on public good, see Pravilova, *A Public Empire*, 35-47.

⁸² Catherine II died in November 1796. RGAVMF F. 150 op. 1 d. 34 l.702.

⁸³ RGAVMF F. 150 op. 1 d. 24 ll. 70-72.

⁸⁴ Lorenzi’s claims for money owed to him by the treasury can be found in RGADA F. 31 op. 1 d. 86 ll. 64-94.

- ⁸⁵ This was hopeful thinking on the part of the Commission. Katsonis never settled his obligations, and both his original financiers – Nikolai S. Mordvinov and his comrades – and a contingent of Black Sea fleet officers who had previously been in his crew sought private legal actions against him, neither of which was resolved in the plaintiffs’ favor. On Mordvinov’s action, see RGIA F. 994 op. 2 d. 26 ll. 55-57, 65; on the Black Sea officers’ suit, see RGAVMF F. 168 op. 1 d. 156. Both are briefly discussed in Grebenshchikova, Rossiiskie flotillii.
- ⁸⁶ Published in Appendix 137 and 138 in Priakhin, Lambros Katsonis, 421-426.
- ⁸⁷ RGAVMF F. 150 op. 1 d. 34 ll. 968-968ob.
- ⁸⁸ RGAVMF F. 150 op. 1 d. 34 ll. 969-970
- ⁸⁹ Catherine II to A.G. Orlov, 6 May and 11 August 1769, SIRIO 1: 15-25.
- ⁹⁰ Many a French consul’s letters of outrage can be seen in RGAVMF F. 150 op. 1 d. 135.
- ⁹¹ Samuel Gibbs to A.A. Bezborodko, 11 August 1789, RGAVMF F. 150 op. 1 d. 97 ll. 194ob-201ob. Part of this dispatch is published in MIRF 13: 567-570.
- ⁹² RGAVMF F. 150 op. 1 d. 30
- ⁹³ See RGAVMF F. 150 op. 1 dd. 13, 21, 22, 23, 28, 42, 57, 87.
- ⁹⁴ Many of the creditors’ claims can be found in AGM, 2: 378-428.
- ⁹⁵ RGAVMF F. 150 op. 1 d. 85 l. 35.
- ⁹⁶ S. P. Khmetevskii, “Appendix 8: Zhurnal S.P. Khmetevskogo,” in Smilianskaia, et al., Rossiiia v Sredizemnomor’e, 586.
- ⁹⁷ RGAVMF F. 150 op. 1 d. 85 ll. 122-122ob.
- ⁹⁸ In the practice of international law in the eighteenth century, there was a significant difference between the rights of war on land and at sea, a difference that was upheld by the Russian prize commission as well.
- ⁹⁹ Roderic H. Davison, “‘Russian Skill and Turkish Imbecility’: The Treaty of Kuchuk Kainardji Reconsidered,” Slavic Review 35, No. 3 (Sept. 1976): 463-483.
- ¹⁰⁰ Compare the Russian commission’s decision with Martens’ attribution of different motives of state ships and privateers: “Glory and duty call an officer to fight the enemy whenever the interest of his sovereign is concerned, and honour is the best reward for his labours and his dangers; it is not so with the privateer. Indifferent to the fate of the war, and often of his country, he has no other inducement but the love of gain, no other recompense but his captures, and the prizes conferred by the state on his privileged piracies.” Martens, An Essay on Privateers, 23. On debates about the moral failings of privateers, see for example Michael J. Crawford, “The Privateering Debate in Revolutionary America,” The Northern Mariner XXI, no. 3 (July 2011): 219-234.
- ¹⁰¹ For a detailed discussion of the politics of abolishing privateering, see Jan Martin Lemnitzer, Power, Law and the End of Privateering (Basingstoke: Palgrave Macmillan, 2014). Russian proposals to commission privateers in the Crimean War can be found in RGAVMF F. 410 op. 2 d. 369 ll. 5-5ob, 10, 45-45ob, 112-113ob.
- ¹⁰² RGIA F. 18 op. 5 d. 329.
- ¹⁰³ F. F. Martens, Sovremennoe mezhdunarodnoe pravo tsivilizovannykh narodov [Contemporary International Law of Civilized Nations] (St. Petersburg, 1882).
- ¹⁰⁴ On international law as a civilizing process, see Martti Koskenniemi, The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870-1960 (Cambridge: Cambridge University Press, 2002). For Martens’ views of international law, see V. V. Pustogarov, Our Martens: F.F. Martens, International Lawyer and Architect of Peace (London: Simmonds & Hill, 2000); Mälksoo, Russian Approaches to International Law, 42-47. For a different reading of Martens, as a semi-peripheral elite jurist who appropriated European legal norms to challenge the perception of Russia in Europe, see Arnulf Becker Lorca, Mestizo International Law: A Global Intellectual History 1842–1933 (Cambridge: Cambridge University Press, 2014), 121-127.
- ¹⁰⁵ Antony Anghie, Imperialism, Sovereignty, and the Making of International Law (Cambridge and New York: Cambridge University Press, 2004) offers a prominent example of this line of thought. For a useful discussion of the Third-world Approach to International Law (TWAAIL) movement, see Anne Orford, “The Past as Law or History? The Relevance of Imperialism for Modern International Law,” Institute for International Law and Justice Working Paper (History and Theory of International Law Series) no. 2 (June 2012).