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**Lawlessness on the maritime frontier of the greater Chesapeake,
1650–1750**

Margolin, Samuel G., Ph.D.

The College of William and Mary, 1992

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LAWLESSNESS ON THE MARITIME FRONTIER OF
THE GREATER CHESAPEAKE, 1650-1750

A Dissertation

Presented to

The Faculty of the Department of History
The College of William and Mary in Virginia

In Partial Fulfillment
of the Requirements for the Degree of
Doctor of Philosophy

by

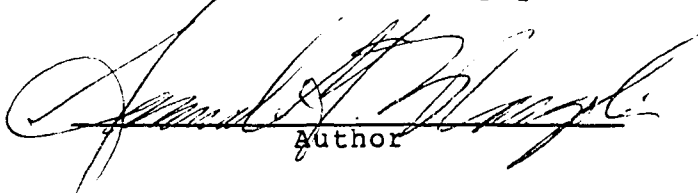
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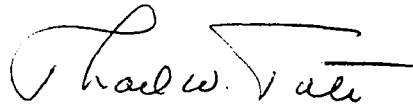
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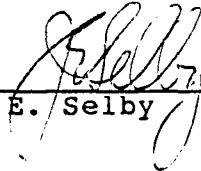
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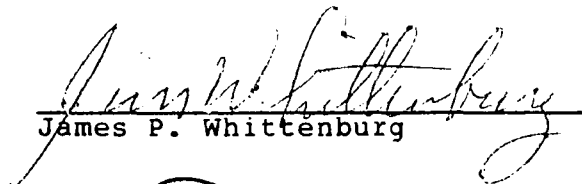
Thad W. Tate, Chairman



John E. Selby



James Axtell



James P. Whittenburg



A. Roger Ekirch
Department of History,
Virginia Polytechnic Institute

In memory of my parents,
Boris Margolin and Selma Levine Margolin,
and
my sister-in-law, Lori Kay Moss

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ABSTRACT

When historians have addressed the issue of maritime lawlessness in the English colonies of North America their attention almost invariably has been drawn to New England where, according to the commonly held belief, opposition to the navigation system of the home government was most fervent, concerted, and pervasive. Rarely have researchers examined local involvement in piracy, illicit trade, and the unauthorized salvage of stranded or sunken vessels, or wrecking, in the Chesapeake region where, scholars customarily have maintained, the colonists willingly participated in the imperial navigation scheme. Moreover, historical investigations of freebooters and smugglers traditionally have focused on the lawbreakers themselves, generally neglecting the activities of coastal inhabitants without whose support the outlaws could not have operated and prospered.

Contrary to the conventional wisdom, however, not only did residents of the greater Chesapeake personally engage in piracy, contraband trade, customs fraud, and wrecking, but many more supported their actions by assisting and harboring the perpetrators or by refusing to convict them in the common-law courts. In the provincial assemblies, other colonists opposed legislative initiatives designed to improve the enforcement of imperial policy in the maritime sphere. Compounding the enforcement problem in the greater Chesapeake was the participation of both royal and provincial officials -- including customs officers, guardship commanders, and even colonial governors -- in various contraband, duty fraud, and piratical schemes themselves. If British authorities wondered about the sources of such behavior they did not have far to look for precedents. English piracy, smuggling, and wrecking -- often tacitly approved and even actively promoted by high-ranking government officials -- dated back centuries before the colonial era.

The coincidence of the periods of greatest complaint about maritime lawbreaking in the Chesapeake with the intervals of most active regulation of colonial affairs by the home government suggests that inhabitants of the bay region conducted illegal maritime activities continuously between 1650 and 1750 and beyond. Reports by customs officials and guardship captains in the decade preceding the Revolution, including accounts of violent resistance to royal authority, indicate that compliance with the Navigation Acts was no better than it had been in the late seventeenth century when English authorities undertook a major reform initiative designed to end abuses of the system.

LAWLESSNESS ON THE MARITIME FRONTIER OF
THE GREATER CHESAPEAKE, 1650-1750

CHAPTER I

Lawlessness on the "sea frontiers": The English Precedent

In the spring of 1722 Governor Alexander Spotswood reported to England's Board of Trade that Virginia's defenses finally had been strengthened sufficiently to safeguard the colony's "sea frontiers" against attack by pirates and other sea marauders.¹ Spotswood's statement is significant in two respects: first, as a telling indication that piracy had plagued the greater Chesapeake for over half a century and, second, for the governor's use of the phrase "sea frontiers." In modern parlance "frontier" normally refers to an unexplored or uninhabited region adjacent to a settled, civilized country. The governor's use of the term to describe the interface between the land masses and the estuaries, bays, and ocean of his colony clearly connotes something different, however, since these regions in Virginia had already been explored and to a considerable extent developed well before Spotswood's tenure.

In the seventeenth and eighteenth centuries, "frontiers" referred to national borders, often military

¹ CSPC, XXXIII, #175, p. 86.

boundaries between hostile nations.² Although no foreign enemy effectively occupied the waters and shorelines of Virginia for any extended period during the colonial era, British officials were nevertheless engaged in an almost continual struggle against covert forces of lawlessness that threatened the authority of the colonial government and the exercise of royal prerogatives, particularly the collection of royal revenues. To be sure, the governors and Royal Navy guardship commanders assigned to the Chesapeake were mainly concerned with threats posed by outside interlopers: foreign invaders, displaced pirates from the Caribbean, and traders from other colonies and nations who came in violation of the English navigation acts.³ But official anxiety also extended to the residents of Virginia, Maryland, and North Carolina, a significant (though essentially indeterminate) number of whom engaged in smuggling, aided and abetted pirates, looted stranded vessels, and generally ignored English maritime law as it was intended to apply to them.

² The Oxford English Dictionary (Oxford, 1961), vol. IV, 565-66.

³ Although the term "sea frontier" was not commonly employed, even in Spotswood's time, the idea that it represented undoubtedly was familiar to coastal residents of the Chesapeake. A Virginia statute of 1700 entitled "An act for the better strengthening the frontiers and discovering the approaches of the enemy," for example, contained provisions for the establishment of continuous watches in Elizabeth City, Accomack, and Northampton Counties in order to "keep a constant looke out to seaward by night and by day" (William W. Hening, ed., The Statutes At Large: Being a Collection of All the Laws of Virginia, 13 vols., [Richmond, 1809-1823], III, 204, 208).

Ironically, most of these individuals did not consider themselves outlaws, at least not in the usual sense. For many, the pursuit of material gain -- especially in the maritime sphere -- justified technical breaches of the law, an attitude which seems to have derived from a long-standing English tradition.⁴ Furthermore, the social, political, and economic transformation that colonial America was undergoing in the 1650-1750 period, particularly during the last quarter of the seventeenth century, helped to create an environment in which objective right and wrong were not always universally recognized or even readily identifiable. Accordingly, the concept of a "maritime frontier," as used in this study, is meant to convey an idea beyond a literal or historical definition of the term: rather a place to which not only declared enemies and habitual criminals, but also otherwise law-abiding citizens resorted as a haven for conducting "illegitimate" enterprises beyond lawful control. Such a maritime frontier was defined not so much by political or geographical boundaries as by a state of mind in which private individuals and public administrators far from the seat of

⁴ Concerning popular attitudes toward illicit trade and customs fraud in medieval England, for example, one historian has concluded that "in the eyes of any representative gathering of twelve good and lawful men, smuggling was not an offence. The smuggler was an honest thief, not a criminal" (Neville Williams, Contraband Cargoes: Seven Centuries of Smuggling [Hamden, Conn., 1961], 15).

imperial authority felt themselves at liberty to observe those laws which suited them and disregard those which did not.

The objectives of this study are to examine the various forms of maritime lawlessness in which the colonists and officials of the greater Chesapeake participated, trace the development and perpetuation of attitudes in England that contributed to the adoption of similar practices in the colonies, assess the extent to which Chesapeake colonists engaged in or supported such illegal enterprises, and evaluate the procedures implemented by English and colonial officials to control lawlessness in the maritime sphere. A concluding chapter attempts to establish the connections between the different types of maritime illegality and those who engaged in them and to define the social milieu in which these activities were pursued.

The analysis focuses on three types of maritime lawlessness: illicit trade, piracy, and the unauthorized salvage of stranded or sunken vessels, commonly referred to as "wrecking." Although a number of studies on piracy in colonial Virginia, Maryland, and North Carolina have been produced already, these works tend to focus more or less exclusively on the escapades and personalities of the freebooters themselves, generally ignoring the colonists' roles as sympathizers, trading partners, and defenders of

the pirates.⁵ With regard to illicit trade, most scholars have concentrated their attention on the northern (especially the New England) colonies where noncompliance with English trade and navigation laws was more overt and opposition more openly defiant. As an early royal colony, Virginia in particular has been widely regarded as an obedient outpost of British economic imperialism where a relatively submissive population found advantage in a closed imperial trading system and had little difficulty complying with the mercantile policies of the crown. The documentary record suggests, however, that the attitudes and illegal trade activities of the Virginia colonists may not have differed from their northern neighbors as much as we believe. Apart from piracy and illicit trade, other acts of maritime lawlessness such as the wrecking and looting of ships have rarely received more than the passing attention of scholars.

One of the most significant and revealing aspects of the "maritime frontier" mentality is that the attitudes and behavior associated with it were by no means restricted to

⁵ See, for example, Hugh Rankin, The Golden Age of Piracy (New York, 1969); Donald Shomette, Pirates on the Chesapeake, (Centerville, Md, 1985); and Lloyd H. Williams, Pirates of Colonial Virginia (Richmond, 1937). Robert E. Lee, Blackbeard the Pirate: A Reappraisal of His Life and Times (Winston-Salem, N.C., 1974) takes a legal approach to the questions surrounding the notorious pirate's criminal career while in North Carolina, especially his relationship with the proprietary colony's authorities and the role of Virginia's royal governor and Royal Navy personnel in the buccaneer's defeat and the distribution of his booty.

the colonies or to individuals of low socioeconomic status. The notion that activities which were proscribed on land might be tolerated, even encouraged, in the maritime sphere had clear and ancient precedents in the home country. The fourteenth-century reign of Richard II, for example, has been characterized as one "remarkable for the number of pardons granted for acts of . . . wrecking, piracy, and smuggling."⁶ By the seventeenth century, lawlessness involving gentlemen of high rank on the maritime frontier of England had become a fairly commonplace affair and one which would demonstrably influence the attitudes and actions of England's overseas emigrants and descendants during the colonial era. As a result, not only slaves and servants, common criminals, and free persons of modest means but some of the foremost citizens and colonial officials -- including customs collectors, Royal Navy officers, and governors -- actively participated in various forms of illicit trade and revenue fraud, illegally sought to benefit personally from shipwreck episodes, and even colluded with pirates.

Understanding maritime lawlessness in a greater Chesapeake that includes Maryland and northeast North Carolina -- in many respects a single economic region -- requires that the phenomenon be viewed not as an isolated aberration, but rather as consistent with, and a product of,

⁶ Henry Atton and Henry H. Holland, The King's Customs: An Account of Maritime Revenue and Contraband Traffic in England, 2 vols. (New York 1967), I, 28.

an ethical environment which tolerated and even encouraged such illegal activity during the seventeenth and early eighteenth centuries in both the colonies and the home country.⁷ Nor, of course, was it a problem confined to the Chesapeake. In sentencing the "gentleman" pirate Stede Bonnet to death in 1718, the chief justice of South Carolina attributed the pirate's misdeeds directly to the harmful effects of such a degenerate moral climate, expressing regret that the principles of religion instilled in Bonnet through his education had been corrupted, "if not entirely defaced, by the Scepticism and Infidelity of this wicked Age."⁸ So pervasive and threatening had the manifestations of the prevailing morality become by the end of the seventeenth century, warned a New Jersey governor, that if something was not done to curb the general spirit of lawlessness "the strongest hand and the longest sword" would constitute "the best titles to estates in the colonies."⁹

It was convenient, of course, and perhaps only natural, for English officials to identify distant or external factors in the colonies as the source of the trouble: the colonists' loose morals, the venality of provincial

⁷ Clive Senior, A Nation of Pirates: English Piracy in Its Heyday (New York, 1976), 126-28.

⁸ Daniel Defoe, A General History of the Pyrates, Manuel Schonhorn, ed., (Columbia, S.C., 1972), 108.

⁹ CSPC, XV, #1203, p. 565; Joseph D. Doty, The British Admiralty Board as a Factor in Colonial Administration, 1689-1763 (Philadelphia, 1930), 69.

officials, irresponsible proprietary administrators, and even, perhaps, the occasional corrupt royal governor. Seldom did anyone, much less crown authorities themselves, suggest that the root causes might lie closer to home. On rare occasions, however, an astute social critic would pierce the veil of hypocrisy. Commenting on the second volume of A General History of the Pyrates, for example, a modern scholar has observed that contemporary author Daniel Defoe "suddenly revealed another world shockingly analogous" to that of the pirates and smugglers, "a world of politicians and statesmen, in which a more sophisticated group of robbers, thieves, and profligates" shamelessly exploited their status and influence to violate, with virtual impunity, the very same prohibitions which they and their associates complained about so indignantly.¹⁰

In defense of the influential men of Defoe's era, official encouragement and support of illicit maritime activities such as piracy and smuggling already had achieved the status of time-honored traditions by the eighteenth century. Despite periodic attempts to suppress piracy as early as the 1300s, the practice of conducting depredations against foreign ships achieved respectability in England

¹⁰ Manuel Schonhorn in Defoe, History of the Pyrates, xxxvii.

during the following centuries.¹¹ The distinction between piracy and privateering, never clear in the first place, grew particularly blurred during the years of Anglo-Spanish rivalry in the reign of Elizabeth I. As a result, piracy became established rather firmly as an English institution, a development regretfully acknowledged by the virgin queen's successor, James I, who, as early as 1620, lamented that "this accursed plague introduced by Queen Elizabeth by permitting piracy to her subjects, is even now too deeply rooted among these people."¹²

If English sea marauding had a redeeming characteristic (apart from contributing to the national treasury and serving as a "nursery" for English seamen), it was that piracy constituted a remarkably egalitarian phenomenon for its time, drawing active participation as well as financial and logistical support from all classes of society.¹³ Although most pirate captains appear to have come from lower-class backgrounds, these maritime outlaws often were

¹¹ C. L. Ewen, "Organized Piracy Around England in the Sixteenth Century," Mariners Mirror, 34 (1949), 30-31; Helen J. Crump, Colonial Admiralty Jurisdiction in the Seventeenth Century (London, 1931), 7; C. L. Kingsford, "West Country Piracy: The School of English Seamen" in Prejudice and Promise in Fifteenth-Century England (London, 1962) 92.

¹² Senior, Nation of Pirates, 8-9, 75.

¹³ Ewen, "Organized Piracy," 33; M. Oppenheim, "Maritime History" in The Victoria History of the County of Cornwall, William Page, ed., (London 1906) I, 489; Senior, Nation of Pirates, 56; Henry Manwaring, The Life and Works of Sir Henry Mainwaring, G.E. Manwaring and W.G. Perrin, eds., 2 vols., (London, 1920-21), II: 41 n. 2.

well connected socially.¹⁴ A late sixteenth-century freebooter (who had developed a particularly dastardly reputation for brutality toward his victims) boasted, for example, that he had "better friendes in Englande than eanye alderman or merchants of London," a claim echoed over a century later by the infamous pirate Blackbeard who was heard to brag that there was no home in North Carolina where he was not a welcome guest.¹⁵

Sponsorship by members of the English gentry and the collusion of local officials and even England's lord high admiral helped to promote piratical ventures and the development of trading networks to dispose of the freebooters' loot.¹⁶ With so many men of high rank investing a personal stake in the pirates' success, official efforts to control the marauders were, not surprisingly, "hesitating and ineffectual" and legal prosecutions often amounted to little more than sham proceedings.¹⁷ The case of two Cornish squires who served on government commissions

¹⁴ B. Richard Burg, "Legitimacy and Authority: A Case Study of Pirate Commanders in the Seventeenth and Eighteenth Centuries," American Neptune, 37 (1977), 45-47.

¹⁵ Ewen, "Organized Piracy," 38; Lee, Blackbeard, 66; Defoe, History of the Pyrates, 77.

¹⁶ Robert C. Ritchie, Captain Kidd and the War Against the Pirates (Cambridge, Mass., 1986), 12-14; David Mathew, "The Cornish and Welsh Pirates in the Reign of Elizabeth," English Historical Review, 39 (1924), 337; Ewen, "Organized Piracy," 38-41; Senior, Nation of Pirates, 46, 84.

¹⁷ Cyrus H. Karraker, Piracy Was a Business (Rindge, N.H., 1953), 34.

inquiring into piracy while simultaneously engaging in or actively sponsoring similar ventures themselves does not appear to have been uncommon.¹⁸

Local inhabitants collaborated with pirates most intensively in the southwest of England and southern Ireland.¹⁹ Piracy had so many investors in Cornwall and Devon, in fact, that any serious initiative to eradicate the industry, one historian has speculated, might have incited an insurrection in those counties.²⁰ Support was also strong in London where many residents (known by their contemporaries as "land pirates") defied royal authority by aiding the sea robbers and facilitating their escape from law enforcement officials.²¹

Despite James I's efforts to suppress piracy, it was his son, Charles I, paradoxically, who sanctioned acts of piracy in the Red Sea and accepted a share of the proceeds himself.²² James's grandson, Charles II, contributed to the

¹⁸ Kingsford, "West Country Piracy," 95-102.

¹⁹ Senior, Nation of Pirates, 46; Ritchie, Captain Kidd, 12. In the second decade of the seventeenth century the famous reformed pirate Sir Henry Mainwaring expressed his conviction that, although acts of piracy were committed more often in English waters, "yet in proportion Ireland doth much exceed it, for it may be well called the Nursery and Storehouse of Pirates, in regard of the general good entertainment they receive there" (Mainwaring, Life and Works, II, 15-16, 46-48).

²⁰ Karraker, Piracy Was a Business, 35.

²¹ Senior, Nation of Pirates, 120-24.

²² Ritchie, Captain Kidd, 14.

westward expansion of piracy into the Caribbean by not only condoning the allegedly brutal exploits of Henry Morgan, but by knighting the marauder and elevating him to the post of deputy governor of Jamaica.²³ As long as piracy continued to serve the economic interests of both the Jamaican colonists and the royal government, the crown had little incentive to discourage the practice. England could not afford to assign a naval fleet to the island, but Jamaican governors, acting in accordance with the prevailing "no peace beyond the line" doctrine that defined relations between European powers in the New World, found that they could promote the home country's imperial ambitions by issuing buccaneers privateering commissions to attack Spanish settlements and shipping.²⁴ Island merchants

²³ Shirley Carter Hughson, The Carolina Pirates and Colonial Commerce, 1670-1740 (Baltimore, 1894), 17; A. O. Exquemelin, The Buccaneers of America: Comprising a pertinent and truthful description of the principal acts of depredation and inhuman cruelty committed by the English and French buccaneers against the Spaniards in America (London, 1973), passim; P. K. Kemp and Christopher Lloyd, The Brethren of the Coast: British and French Buccaneers in the South Seas (London, 1960), 21, 30-31; Violet Barbour, "Privateers and Pirates in the West Indies," American Historical Review, XVI (April 1911), 555, 563; Richard S. Dunn, Sugar and Slaves: The Rise of the Planter Class in the English West Indies, 1624-1713 (New York, 1973), xv; Bartholomew R. Carroll, Historical Collections of South Carolina; Embracing Many Rare and Valuable Documents, Relating to the History of that State from its First Discovery to its Independence in the Year 1776, (New York, 1836), I, 86.

²⁴ "Beyond the line" referred to the area in the Atlantic Ocean west of the prime meridian and south of the Tropic of Cancer in which European rivals were free, by mutual agreement, to challenge one another's territorial

benefited both as purveyors of provisions to the pirates and as recipients, in turn, of desirable goods at low cost.²⁵

When the European colonial powers decided in the final quarter of the seventeenth century that it was in their collective and individual interests to suppress piracy in the Caribbean, they undertook stern measures to effect its eradication.²⁶ Many buccaneers who feared the hangman's noose but were unprepared to abandon their profession consequently gravitated toward the North American mainland where they received favorable treatment from English colonists. When considering attitudes sympathetic toward buccaneers in the Chesapeake in particular, it may be of some significance that the vast majority of immigrants to the region in the seventeenth century embarked from London

claims and rights of free passage without endangering peaceful relations at home. The result, as one historian has described it, was that the Caribbean became "the Wild West of the sixteenth and seventeenth centuries" (Dunn, Sugar and Slaves, chapter 1, especially pp. 9-11; Carl and Roberta Bridenbaugh, No Peace Beyond the Line: The English in the Caribbean 1624-1690 [New York, 1972], 169-70).

²⁵ Ritchie, Captain Kidd, 15. Pennsylvania proprietor William Penn underscored the importance of Jamaica's role in the proliferation of English New World piracy when he identified the island as the "seminary, where pirates have commenced Masters of Art, after having practised upon the Spaniard and then launched for the Red and Arabian Seas" (CSPC, XVIII, #366, p. 211).

²⁶ John H. Parry, Trade and Dominion: The European Overseas Empires in the Eighteenth Century (New York, 1971), 44.

and the southwestern port of Bristol, two areas associated with extensive popular support for piracy.²⁷

The documented history of illicit trade in England, like that of piracy, dates back centuries before the colonial era.²⁸ Two salient insights derived from research on this early contraband trade have implications of special relevance for the greater Chesapeake. The first, that illegal trade was conducted primarily through the outports rather than London because of the difficulty associated with smuggling near a principal port and administrative center, suggests that an area like the greater Chesapeake, which lacked major commercial entrepôts and urban centers, would have been even more conducive to such activity.²⁹ The second, that the bulk of the unlawful commerce was performed with the connivance and, in many instances, the active participation of the same

²⁷ James Horn, "Servant Immigration to the Chesapeake in the Seventeenth Century" in The Chesapeake in the Seventeenth Century: Essays on Anglo-American Society and Politics, Thad W. Tate and David Ammerman, eds. (New York, 1979), 66.

²⁸ Williams, Contraband Cargoes, chapters 1-4 offers the most comprehensive analysis of English smuggling in the precolonial and colonial eras. For additional background see Atton and Holland, King's Customs, I; Charles G. Harper, The Smugglers: Picturesque Chapters in the Story of an Ancient Craft (London, 1909); and Neville Williams, The Maritime Trade of the East Anglian Ports, 1550-1590 (Oxford, 1988).

²⁹ Williams, East Anglian Ports, 25.

government functionaries who were charged with detecting and preventing it, indicates a long-standing precedent for official corruption and collaboration at the local level.³⁰

Early customs violations in England generally involved the unlicensed exportation of domestic wool, wine, and foodstuffs.³¹ Repeated government attempts to restrict foreign imports through legislation like the Corn Laws (dating from 1361) were openly derided and, in fact, only served to encourage contraband trafficking.³² Many of the related institutional abuses, including bribery and extortion, and certain contraband techniques such as the use of counterfeit customs certificates that would play integral parts in the illicit trade of the greater Chesapeake are well documented in the precolonial history of the home country.³³

While these offenses continued into the seventeenth century, the founding of an overseas colony in Virginia led to the delineation of a navigation system for the whole empire. Debates as early as 1619 over the Virginia

³⁰ Ibid.; Atton and Holland, King's Customs, 60.

³¹ Atton and Holland, King's Customs, 27-29; Oppenheim, "Maritime History," 478; Williams, Contraband Cargoes, 3; Williams, East Anglian Ports, 27.

³² Williams, Contraband Cargoes, 31.

³³ Ibid., 19, 29, 31, 32; Williams, East Anglian Ports, 25-33; Atton and Holland, King's Customs, 60.

Company's tobacco contract with the crown resulted in the formation of a policy by which colonial planters were granted a monopoly of the English market.³⁴ In return, the colonists assumed obligations to export their produce exclusively to the mother country, to conduct no trade with foreigners nor ship their goods aboard foreign vessels, and to pay duties on colonial imports into England.³⁵

Virginia's compliance with the scheme was spotty, at best, with frequent violations involving tobacco exports to Holland and Dutch colonies and the importation of European manufactured goods into Virginia aboard Dutch ships.³⁶

Back in the home country the codification of this commercial policy, beginning with Parliament's passage of the first Navigation Act in 1651, appears to have inspired a significant increase in smuggling in response to the additional restrictions imposed on international commerce.³⁷ To some degree, then, the development of illicit trade in the American colonies (where the Navigation

³⁴ Charles M. Andrews, The Colonial Period of American History, 4 vols. (New Haven, 1934-1938), IV, 13.

³⁵ Andrews, Colonial Period of American History, IV, 12-20.

³⁶ Ibid., I, 158-59 n. 6; IV, 17. Also see, for example, Jennings C. Wise, Ye Kingdome of Accawmacke or the Eastern Shore of Virginia in the Seventeenth Century (Richmond, 1911), 147-48 and Susie M. Ames, Studies of the Virginia Eastern Shore in the Seventeenth Century (Richmond, 1940), 45-49, 95.

³⁷ Atton and Holland, King's Customs, 94, 116, 129-30.

Acts also introduced new regulations to tighten the commercial system) paralleled, and was contemporary with, comparable illegal activity in England.³⁸ As was the case with other social, cultural, and economic institutions, however, the nature of the central regulatory agencies which eventually would evolve in England undoubtedly influenced the character of their colonial derivatives and subsidiaries to a significant degree.

So if, as scholars have alleged, the English customs administration of the seventeenth and eighteenth centuries truly was "riddled with abuses" and if smuggling actually amounted, as some historians and contemporaries have liberally estimated, to anywhere from a third to half of all English commerce, then it is not unreasonable to suppose that similar problems may have plagued the trade of colonial

³⁸ In one category of customs abuse, violence committed against revenue officers, residents of the greater Chesapeake actually may have played a leading role. According to Neville Williams, attacks against customs officers were fairly common in medieval England, but seem to have dissipated considerably during the sixteenth and seventeenth centuries (Contraband Cargoes, 12). The greatest physical harm to customs collectors in any of the American colonies before 1750 was perpetrated by Marylanders and North Carolinians in the last quarter of the seventeenth century, while most of the comparable documented instances in England during the colonial era appear to have occurred no earlier than the second decade of the eighteenth (Atton and Holland, The King's Customs, 179, 181, 230-31, 255, 465; Oppenheim, "Maritime History," 505; Harper, The Smugglers, passim, especially chapters III-V).

North America.³⁹ Practical innovations in smuggling methods and the increased sophistication of contraband networks during the period also contributed to the development of illicit trade as a significant, though basically immeasurable, element of the Anglo-American colonial trade system.⁴⁰

Not surprisingly, the generally tolerant attitude toward smuggling (or, at least, the inability to control it effectively) manifested itself in England's New World trade activities as well. Parliament's approval of an act creating the South Sea Company in 1711 represented, in its time, only the latest and least overtly hostile expression of the long-standing British desire to penetrate illegally the Spanish commercial monopoly in the West Indies and the Central and South American mainland.⁴¹ Historians usually

³⁹ G. D. Ramsey, "The Smuggler's Trade: A Neglected Aspect of English Commercial Development," Transactions of the Royal Historical Society, ser. 5, vol. 2 (1952), 133, 135; Williams, Contraband Cargoes, 28. Though such calculations are clearly on the high side, historian Marcus Rediker has deemed it "safe -- and conservative -- to estimate that the trade of the empire exceeded customs accounts by 15 to 20 percent," a significant figure by any measure (Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates, and the Anglo-American Maritime World, 1700-1750 [Cambridge, 1987], 73 n. 144).

⁴⁰ Rediker, Deep Blue Sea, 72; James F. Shepherd and Gary M. Walton, Shipping, Maritime Trade and the Economic Development of Colonial North America (Cambridge, 1972), 205; Williams, Contraband Cargoes, 63, 71.

⁴¹ Barbour, "Privateers and Pirates," passim; John G. Sperling, The South Sea Company: An Historical Essay and Bibliographical Finding List (Cambridge, Mass., 1962), 1, 8-11; Andrews, Colonial Period of American History, IV, 140,

identify the malfeasance of company directors most directly with the defrauding of corporation shareholders in the scandal known as the South Sea Bubble, but the "aura of corruption," as one scholar has characterized prevailing business attitudes within the company, filtered down to the field agents as well.⁴²

Since the parameters of the trade agreement that England negotiated with Spain at the conclusion of Queen Anne's War were so restrictive, the English project was doomed to failure as a legitimate financial venture from the start. At the stockholders' expense, however, servants of the government-sanctioned enterprise engaged in an extensive illicit trade with the Spanish New World colonies, sharing their profits with company directors and, frequently, Royal Navy officers who provided protection for the smugglers.⁴³ Not only did the crown tacitly approve of the illicit trading activity, but, during the War of Jenkins' Ear, it also permitted the deployment of Royal Navy ships to protect British contrabandists, prompting English contemporaries as

249, 354.

⁴² Sperling, South Sea Company, 23, 27; John Carswell, The South Sea Bubble (Stanford, Calif., 1960).

⁴³ Sperling, South Sea Company, 7-8, 23-24, 40, 44; Vera L. Brown, "The South Sea Company and Contraband Trade," American Historical Review, XXXI no. 4 (July 1926), 672, 676; Marcus Rediker, "Society and Culture among Anglo-American Deep Sea Sailors, 1700-1750," Ph.D. dissertation (University of Pennsylvania, 1983), 39; Williams, Contraband Cargoes, 142.

well as modern historians to suggest that the government prosecuted the war principally to allow British smugglers to continue to violate Spanish prohibitions against foreign commerce.⁴⁴ Small wonder, then, in view of their own rulers' disregard for the restrictive trade regulations of other nations, that many Anglo-American colonists showed little respect for, or inclination to comply with, the mercantilist policies of their own government.

The home country not only promoted illegal trade in the colonies incidentally by its example in the eighteenth century, but directly as a result of its penal policies. In 1719 Parliament decreed that the most dangerous contrabandists of all, those convicted of armed smuggling, would be transported to the colonies.⁴⁵ The government dispatched so many of these criminals overseas, according to one historian, that contemporary Englishmen believed that the crown was nurturing its empire on the doctrine of illicit trade.⁴⁶

The looting of wrecked and stranded vessels represents another type of maritime illegality which had clear

⁴⁴ Brown, "The South Sea Company and Contraband Trade," 667; Parry, Trade and Dominion, 110; Williams, Contraband Cargoes, 143; Rediker, "Anglo-American Sailors," 42.

⁴⁵ Lawrence A. Harper, The English Navigation Laws: A Seventeenth-Century Experiment in Social Engineering (New York, 1973), 217.

⁴⁶ Williams, Contraband Cargoes, 140.

precedents in both the home country and the early New World colonies. According to an English statute of 1275, disposition of the effects of vessels cast ashore was the king's prerogative. Owners of the cargo might sue for the return of their goods and, upon presenting proof of ownership within a year, their claim would be honored.⁴⁷ In the absence of such a claim, proceeds from the sale of the effects would be distributed among the salvors with the king, and possibly an assignee, receiving a share.

Notwithstanding these theoretical safeguards, numerous destructive episodes in which the law was openly violated have been documented in England from as early as the mid-fourteenth century.⁴⁸ By 1526 an English judge had to explain to the distressed owner of a plundered vessel which had stranded on the Cornwall coast that no redress could be expected since wrecking was simply "the custom of the country," a custom, according to a modern scholar, which remained "immutable through the centuries."⁴⁹ As late as 1771 a Scotsman incurred the wrath of his community for rescuing some shipwrecked mariners and assisting in the

⁴⁷ 3 Ed. I. c. 4. Danby Pickering, ed., The Statutes at Large . . . of Great Britain, continued as Statutes of the United Kingdom of Great Britain and Ireland (Cambridge and London, 1762-1869), I, 79. Cited hereafter as Pickering, English Statutes.

⁴⁸ Oppenheim, "Maritime History," 478-79, 496, 499, 502.

⁴⁹ Ibid., 486.

recovery of their cargo.irate neighbors rewarded the good samaritan by ransacking his house and attempting to burn it down. Eventually, they persuaded him to leave the region altogether for daring to interfere with what they regarded, according to historian Bernard Bailyn, as their "ancient right of pillage."⁵⁰

For the most part, shipwrecks were considered fortuitous occurrences which offered opportunities to coastal inhabitants, and even shipwrecked sailors, to "committ very great Ravage and Plunder" with little fear of retribution.⁵¹ English law provided that local residents and seamen who recovered provisions and other goods from shipwrecks were entitled to salvage fees under certain conditions, one of which was that only an incapacitated vessel having no survivors could be condemned legally, a requirement which, it has been alleged, induced some unscrupulous wreckers, particularly on the coast of Cornwall, to see to it that those who managed to reach shore alive did not remain so for long.⁵² While there does not appear to be any reliable evidence to substantiate the

⁵⁰ Bernard Bailyn, Voyagers to the West: A Passage in the Peopling of America on the Eve of the Revolution (New York, 1986), 500-502.

⁵¹ Cited in Rediker, "Anglo-American Sailors," 142. Also see Birse Shepard, The Lore of the Wreckers (Boston, 1962), 34.

⁵² Arthur H. Norway, Highways and Byways in Devon and Cornwall (London, 1911), 279; Shepard, Lore of the Wreckers, 35.

charge of murder, many instances of local opposition to the efforts of royal agents to secure wrecks for the benefit of the crown or the shipowner have been documented.⁵³ Such resistance often was accompanied by threats of physical violence against those who tried to interfere, causing horrified English authorities to denounce "the cruelty and inhumanity of the people inhabiting the coasts" after one wrecking episode and the "dishonest and savage practices of the common people" after another.⁵⁴

When the English began colonizing the New World, royal authorities had to take the potential for such abuses into consideration. In fact, historians have identified the need to protect the lives and interests of shipwreck survivors as a principal reason for establishing a vice-admiralty court in Bermuda in the late seventeenth century.⁵⁵ The royal government also customarily granted to certain favored companies and individuals admiralty rights, or droits, which included a percentage of the proceeds from sales of condemned goods from shipwrecks. As a colonizing enterprise which enjoyed the protection of the other legal safeguards related to wrecks, the Bermuda Company benefited from the

⁵³ Oppenheim, "Maritime History," 496, 502; Atton and Holland, King's Customs, 255; Norway, Devon and Cornwall, 294-96.

⁵⁴ Cited in Oppenheim, "Maritime History," 502.

⁵⁵ Crump, Colonial Admiralty Jurisdiction, 78-79, 117; Harper, English Navigation Laws, 185.

establishment of vice-admiralty jurisdiction in this respect as well.⁵⁶ Along with the privilege, however, went the responsibility of insuring that proper procedures would be followed with respect to the rights of other legitimate claimants.⁵⁷

In 1621 Spanish authorities complained to company officials that local Bermudians had pillaged the wreck and abused the passengers of a Spanish treasure ship that was cast away on the English island. In a similar situation two decades later, officials in the home country demonstrated that their primary concern was neither the safety of surviving passengers nor the illegality of wrecking per se, but rather securing the crown's share of the loot. England's lord high admiral implied that the company's failure to remand the royal allotment in this instance was the result, moreover, of collusion between the wreckers and colonial officials. Bermuda's governor subsequently managed to compel several individuals to give up their pillaged goods, but they, in turn, had the temerity to sue the royal

⁵⁶ Crump, Colonial Admiralty Jurisdiction, 78-79. In the greater Chesapeake similar droits are recorded as having been claimed by Samuel Tilghman in Maryland in 1659, Robert Brent in Virginia in 1693, and Robert Houlden on behalf of the Carolina proprietors in 1679 (Md. A., XLI, 302-303; Crump, Colonial Admiralty Jurisdiction, 61; VMHB, XIV, 100; CRNC, I, 240; David Stick, The Outer Banks of North Carolina, 1584-1958 (Chapel Hill, N.C., 1958), 24.

⁵⁷ Crump, Colonial Admiralty Jurisdiction, 84.

official and, perhaps to no one's surprise, won their case.⁵⁸

Shortly after mid-century the company and the colonial government were still trying, without success, to recover those effects from the Spanish ship that remained in the islanders' possession. Various attempts to chasten the colonists in subsequent years through legal mechanisms and official proclamations appear to have achieved negligible results. A series of looting incidents over the next two decades involving stranded English merchant ships demonstrates that the wreckers also were impartial as far as the nationality of their prey was concerned.⁵⁹

The same patterns of behavior -- the virtually unrestricted plundering of wrecked vessels without regard to ownership or origin, the reluctance to cooperate with colonial authorities in safeguarding wrecks for the king and distributing the proceeds from the sale of salvaged effects in the lawfully prescribed manner, and the unwillingness of general court juries to convict fellow colonists who participated in the plunder -- all were repeated periodically on the North American mainland along the Eastern Shore and Outer Banks of the greater Chesapeake during the colonial era.

⁵⁸ Ibid., 83-84.

⁵⁹ Ibid., 84-85.

Admittedly, the ability to demonstrate the existence and especially the precise extent of lawlessness on the maritime frontier is difficult. Most of those who engaged in illegitimate enterprises had no desire to publicize their affairs and undoubtedly went to great pains to suppress any evidence of such illicit activities, particularly their own involvement. Consequently, first-hand accounts of participation in smuggling, customs fraud, aiding or trading with pirates, wrecking, etc. are practically nonexistent. Any attempt to quantify that which was never intended to be discovered would almost certainly be futile. That dearth of hard evidence explains why estimates of the actual extent of smuggling, for example, range from as little as five to as much as fifty percent of all English overseas commerce for the years in question.⁶⁰ Additionally, the destruction of most Virginia county court records during the eighteenth and nineteenth centuries severely limits the amount of judicial proceedings and trial testimony available to the researcher.

But documentary evidence of illicit activities is available in a number of primary sources including official records and reports of the home and colonial governments; contemporary newspapers; official correspondence between colonial governors, surveyors of the customs, the Board of Trade, and the Treasury; and the private papers of various

⁶⁰ Rediker, Deep Blue Sea, 72; Andrews, Colonial Period of American History, IV, 241; Williams, Contraband Cargoes, 28.

officials and colonists. Since maritime lawbreakers usually were extremely adept at concealing their activities from public and official notice it sometimes becomes necessary, as one researcher has remarked, "to focus attention mainly upon the fumbings of the government" in its efforts to stem the tide of lawlessness on the "sea frontiers."⁶¹ In addition to actual reports of maritime illegality, inferences about the existence and extent of illicit affairs and official corruption can be made on the basis of the content and tone of government proclamations warning colonists and governors about the consequences of various illegal actions and the frequency with which these warnings were issued.

Naturally, such official declarations must also be viewed with a degree of skepticism. Just as the perpetrators went to considerable lengths to obscure their activities, so too were some officials inclined to exaggerate the extent of lawlessness in the greater Chesapeake either to discredit proprietary rule or, especially in the case of customs agents whose compensation was tied to a percentage of seizures and condemnations, to persuade crown authorities to commit greater resources to the capture of maritime lawbreakers. On the other hand, one must also take into account, as the officials themselves certainly must have done, that too much hyperbole about

⁶¹ Ramsey, "The Smuggler's Trade," 156.

maritime lawlessness might produce the undesirable result of suggesting that the enforcers simply were not doing their jobs or, at the very least, not doing them well.

Although the extent to which Chesapeake inhabitants actually engaged in or abetted maritime illegality cannot be deduced with accuracy from official statements, still the constant fretting of authorities is itself inherently significant as a tacit admission that the government could not effectively enforce the Navigation Acts or the laws designed to prevent collaboration with freebooters. Conversely, the almost complete absence of comment or complaint by Chesapeake residents about the evils of illicit trade, assisting pirates, or looting stranded vessels implies that the colonists did not regard any of these undertakings as serious transgressions, much less as the heinous crimes against which royal officials continually inveighed.

Colonists rarely denounced their neighbors for participating in such activities, partly because, as one deponent reported, anyone who informed ran the risk of being ostracized or, worse, suffering bodily harm. On the infrequent occasions when Chesapeake inhabitants did complain to royal authorities about the perpetration of maritime illegalities, it was usually because the colonists believed that their own safety or financial interests were in jeopardy. Apart from these instances, colonial

Virginians, Marylanders, and North Carolinians generally failed to support, and in many cases actively opposed, government officials in the effort to execute the laws against smuggling, piracy, and wrecking. Such defiance not only took the form of continued lawbreaking, but also manifested itself in common-law courts where juries consistently failed to convict alleged perpetrators, and in colonial assemblies where legislators refused to enact statutes to help implement crown policies. And so, despite the difficulty of discovering the full evidence and interpreting that which is available, a pattern nevertheless emerges from the documents that do survive of a widespread and systematic violation of the Navigation Acts and other maritime laws in the greater Chesapeake, one that employed an impressive variety of methods of evasion and defiance.

CHAPTER II

"Turbulent spirits, stubborn and disloyal hearts and treacherous and wicked inclinations": The Political and Economic Context of Illicit Trade in the Greater Chesapeake

In October 1710 the newly installed governor of Virginia, Alexander Spotswood, sent the bishop of London a glowing character appraisal of his colony's inhabitants: "I have observed here less swearing and Prophaneness, less Drunkenness and Debauchery, less uncharitable feuds and animositys, and less Knaverys and Villanys than in any other part of the world where my Lot has been." But the governor also felt constrained to add, "Whether the natural Cause of this blessing be the people's living under less worldly Temptations . . . or that they are more dextrous in concealing from me their Vices, I will not as yet pretend to decide . . . whether this be the real or my imaginary State of Virginia."¹

What caused Spotswood to qualify his laudatory assessment? Perhaps it was simply the prudent caution of a

¹ Alexander Spotswood, The Official Letters of Alexander Spotswood, Lieutenant-Governor of the Colony of Virginia, 1710-1722, Robert A. Brock, ed., 2 vols. (Richmond, 1882-85), I, 28.

political appointee and career military man who sought to avoid being judged naive in light of subsequent, unforeseeable developments. There is reason to believe, however, that the governor already had grounds for suspicion. On the same day he wrote the bishop, Spotswood also sent a report to the Council of Trade in which he was obliged to admit that, despite his conscientious efforts, he had failed to discover who was responsible for conducting unlawful commerce between Virginia and the Dutch West Indies. In view of the meticulous investigation detailed in the report, it is evident that the perpetrators had been very "dextrous" indeed in concealing from the authorities "a Trade so pernicious to her Majesty's Interest and Service."²

Like other forms of maritime lawlessness, illicit trade originated in the greater Chesapeake well before Spotswood's time and, like the others, continued long after. A series of navigation acts legislated by Parliament during the seventeenth and eighteenth centuries established the restrictions which defined illicit commerce. The first of these, passed in 1651 and principally aimed at undermining the Dutch carrying trade, specified that no European goods could be imported into England or her colonies except on English ships. The Navigation Act of 1660 reiterated the

² Ibid., I, 19.

previous legislation and also restricted the exportation of certain enumerated commodities, including tobacco, from the colonies exclusively to England or other English ports. Already by 1662, however, the home government's dissatisfaction with the level of compliance in Virginia was evident in the royal instructions to Governor William Berkeley: "we have certain knowledge that there is greater endeavors used by the Ill arts of some and negligence of others to defraud us of the freight and benefit which would accrue by the act of Parliament concerning Navigation if the same was carefully and faithfully executed and observed."³

In 1673 Parliament passed the Plantation Duty Act which established a penny per pound tax on the exportation of enumerated goods from one English colony to another. According to the Commissioners of the Customs, the duty was imposed "less for revenue than to prevent exportation of goods from Colony to Colony and so to foreign countries in Europe, evading the English customs."⁴ Nevertheless, the attempt to collect the duty retroactively against a New England merchant trading to North Carolina provided the catalyst for Culpeper's Rebellion in 1677. Efforts to enforce the Navigation Acts continued to meet strong, sometimes violent opposition from residents of the greater

³ VMHB, III, 18; Harold B. Gill, Jr., "The Naval Office in Virginia, 1692-1700," M.A. thesis (College of William and Mary, 1959), 6.

⁴ CSPC, XIII, #2306, p. 662.

Chesapeake. Political disturbances in Virginia and Maryland in succeeding decades resulted in the death of royal customs collectors in each colony.

For the remainder of the seventeenth century English authorities continued to express their annoyance with the failure to curtail illicit trade and customs fraud in the greater Chesapeake. The home government's concern extended beyond the nefarious activities of the colonists to the officials who had been appointed to enforce the trade laws, but whose negligence or complicity had done little to advance the crown's cause. Nearing the century's end with no appreciable improvement in trade law enforcement, the Board of Trade (successor to the Lords of Trade, a committee of the Privy Council) undertook a major legislative and administrative initiative which resulted in passage of the Act for Preventing Frauds and Regulating Abuses in the Plantation Trade in 1696.

The reforms mandated by the act succeeded in correcting many of the most glaring abuses, but smuggling, official corruption, and a more generalized opposition to the royal authority embodied in the navigation laws and other regulations in the maritime sphere continued well into the next century. Although the number of official complaints about illicit commerce and related abuses in the Chesapeake appear to have declined during the half century ending in 1750, evidence suggests that the reduction may have been due

to the laxity of British imperial administration, particularly after 1725, and to greater sophistication in the smuggler's trade and among those who practiced customs fraud. And while the overtly hostile, sometimes violent opposition that characterized the colonists' attitude toward royal customs agents moderated considerably after the turn of the century, the generally more comfortable relationship that developed between customs officials and colonial traders did not always necessarily redound to the benefit of the imperial treasury.

In response to the imposition of the trade laws, smugglers in the greater Chesapeake and the rest of colonial America pursued several principal objectives: the evasion of customs duties, the shipment of enumerated goods to non-English ports, and the direct importation of foreign goods into the colonies. Technically, not all types of duty evasion constituted violations of the Navigation Acts since the colonial governments also assessed their own levies on exports such as furs and skins (which were not enumerated until 1721) and imports such as molasses (not enumerated until 1704), distilled liquors, indentured servants, and slaves.⁵ Although the royal treasury did not suffer directly from the perpetration of these particular forms of

⁵ Andrews, Colonial Period of American History, IV, 98-101, 105.

customs fraud, the revenue from the provincial duties often provided a significant percentage of a colony's operating expenses which the crown otherwise would have had to subsidize. The historical record attests to efforts by Chesapeake merchants and shippers to circumvent all these tariffs, but by far the greatest volume of contraband traffic involved the smuggling of tobacco exports and imports of foreign manufactured goods.⁶

Predictably, most of the official correspondence between England and the Chesapeake colonies regarding trade during the 1650-1750 period reflects a paramount concern with the economic priorities of commerce regulation and revenue collection, but the historical documents also reveal that the broader issue of illegal trade included a significant political dimension as well. The first Navigation Act, for example, was designed not only to subvert the Dutch carrying trade with the English settlements, but also to punish colonies like Virginia for supporting the crown during the English Civil War.⁷ Apart

⁶ For examples of recorded attempts to smuggle skins, liquor, and slaves see Md. A., XX, 284; XXIV, 8; XXVII, 240, 241; EJC, II, 42-43; NCHCR, 1702-1708, 470-71; CSPC, XVIII, #152, p. 80; George Reese, ed., Proceedings in the Court of Vice-Admiralty of Virginia 1698-1775 (Richmond, 1983), x, 20 n. 47; Margaret S. Morriss, Colonial Trade of Maryland, 1689-1715, Johns Hopkins University, Studies in Historical and Political Science, 32, no. 3 (Baltimore, 1914), 129.

⁷ Leo F. Stock, ed., Proceedings and Debates of the British Parliaments Respecting North America, 1542-1754, (Washington 1924-41), I, 218 n., 381; Andrews, Colonial Period of American History, IV, 35-36.

from the consequences to the regional economy of the Chesapeake, the legislation also may have had profound ramifications in terms of perceptions about the significance of illicit trade in the relationship between England and the colonies. By creating hardship in the realm of maritime commerce as a disciplinary measure for undesirable political behavior, the Commonwealth government may have unwittingly established a symbolic association between the two in the minds of Chesapeake colonists. Whether the 1651 Navigation Act actually crystallized this notion is purely conjectural, but it is clear that in time many of the region's inhabitants came to regard the maritime trade sphere as a principal arena for expressing opposition to the authority of the home government, whether Protectorate or royal.⁸

Some English officials viewed the colonists' disregard for the navigation laws not only as evidence of colonial defiance and intransigence, but also as an indication of weak or incompetent local administration. Although the home government certainly did not appreciate such ineffectual leadership, some crown officers nevertheless perceived in

⁸ Such an association already may have existed in the minds of Englishmen involved in maritime commerce. In a landmark case in 1606 English judges ruled against a merchant who had refused to pay a certain duty because Parliament had not specifically authorized it, thereby upholding the king's prerogative to levy duties at will. "Henceforth," Neville Williams maintains, "the smuggler took on the role of a guardian of English liberties against the increasing despotism of the Crown" (Contraband Cargoes, 65).

the situation an opportunity to strengthen and consolidate imperial control in the recalcitrant regions as a remedy.

One of the major law enforcement problems that royal authorities had to address, for example, was the almost universal unwillingness of the general courts in the greater Chesapeake to convict illicit traders, pirates, and their collaborators regardless of the persuasiveness of the evidence. As a result, Virginia governor Francis Nicholson predicted in 1700 that maritime lawlessness would be "almost impossible to prevent . . . in this part of the world, except the Courts of Vice-Admiralty," that is, courts without juries presided over by judges appointed by the governors, "be well established."⁹ Accordingly, a principal provision of the Act of 1696 called for the creation in the colonies of vice-admiralty courts whose judges would be far less sympathetic to contraband trade and piracy than the average denizens of the region.¹⁰ The measure unquestionably provided a useful tool in the campaign against illicit commerce, but it also conveniently served another, perhaps larger, imperial purpose. As Governor Nicholson explained, "These parts, being trading

⁹ CSPC, XVIII, #523, p. 310.

¹⁰ See, for example, Rediker, Deep Blue Sea, 313 and Andrews, Colonial Period of American History, IV, 251.

Colonies, seem to want and require such a Court, in order to keep them within their bounds of dependance."¹¹

Political considerations related to the Navigation Acts in turn affected perceptions about the prevalence of illicit trade and who was responsible for it. Until North Carolina became a royal colony in 1729, one of the refrains most consistently voiced by royal officials was the difficulty, if not impossibility, of effectively enforcing the trade laws in the greater Chesapeake as long as one or more of the colonies remained under proprietary control.¹² In 1721 the Board of Trade represented to the king that, although North Carolina had the benefit of a full complement of customs officials, "daily experience shows that illegal Trade is not to be prevented in a Proprietary Government."¹³

As was the case with piracy, the alleged involvement of colonists and officials in illicit trade in proprietary Maryland and North Carolina provided a convenient pretext for the advocates of charter nullification. Several years after the passage of the 1696 legislation, royal authorities

¹¹ CSPC, XVIII, #523, p. 310.

¹² Edward Randolph, Edward Randolph 1676-1703, Including His Letters and Official Papers from the New England, Middle and Southern Colonies in America, Robert N. Toppan and Alfred T. Goodrick, eds., 7 vols. (New York, 1967), V: 135, 264-66, 270-71; CRNC, I, 545-47; CSPC, XV, #149 i, p. 72; XVI, #451, p. 211.

¹³ CRNC, II, 420.

complained to the Carolina proprietors that, despite many previous laws and instructions for preventing fraud in the plantation trade, "very great Abuses have been and continue still to be practiced." Any failure to enforce "strict and punctuall observance" of the trade laws in Carolina in the future, crown officials warned, would be regarded as an "Infraction of those Laws tending to y^e forfeiture of our Letters Patent for y^e Government of that . . .

Province."¹⁴ While it is entirely possible that the impulse to discredit the proprietary colonies may have contributed to unfounded or exaggerated charges of wrongdoing, it also seems likely that sensitivity to the issue and fear of its negative repercussions may have discouraged proprietary officials from accurately reporting the volume of illicit trade and related instances of official corruption in their colonies.

An additional consequence of the debate over the proprietary colonies was that it tended to obscure similar or worse transgressions that less suspect colonists and officials were perpetrating in royal Virginia (and Maryland during the period of direct crown control from 1691 to 1715), precisely the point that Pennsylvania proprietor William Penn tried to impress on royal authorities when he boldly and indignantly asserted in 1701, "If I cannot prove proprietary Governments more Innocent and more Beneficiall

¹⁴ Ibid., I, 504.

to the Crown than those that are called the Kings I will resign my Pretensions."¹⁵ The Quaker proprietor specifically charged that royal Maryland was guilty of much greater abuse of the trade laws than his own colony.¹⁶

These allegations, coming as they did from the founder of a proprietary colony, probably had only a limited impact. But a 1698 memorial submitted to the Board of Trade by Virginia attorney Benjamin Harrison must have been harder to ignore. "There is perhaps no place in the King's dominions," Harrison maintained, "where the methods of managing both the trade and the revenues are so exactly calculated to defraud the public, abuse the subject and prevent discovery thereof as the present constitutions demonstrate Virginia to be."¹⁷

Harrison's document is as remarkable for its source as its candid revelations. Testimonials by colonists detailing the manner in which illicit trade and customs fraud were perpetrated and identifying the participants were extremely rare. The reason, the Virginia attorney explained, was not that the violations occurred infrequently, but, quite the contrary, precisely because the wrongdoing was so pervasive. So many colonists, including men of high station, were

¹⁵ Cited in Michael G. Hall, Edward Randolph and the American Colonies, 1676-1703 (Chapel Hill, 1960), 211.

¹⁶ Ibid., 210-11.

¹⁷ CSPC, XVI, #656, p. 330.

intimately involved that "those who would endeavour to make any reformation" would "never fail to be branded as persons of turbulent spirits, stubborn and disloyal hearts, and treacherous and wicked inclinations." Worse yet, those who dared to expose the abuses would be certain to encounter "all imaginable opposition and perhaps be pursued with rage and violence by those who think themselves likely to lose by the alteration."¹⁸

Harrison, it must be recognized, was not a totally disinterested observer. To a certain degree his views reflect machinations related to another important aspect of the political milieu, the arena of factional strife and interpersonal rivalries within each of the colonies of the greater Chesapeake. Related by marriage to the powerful and controversial cleric James Blair, Harrison not only shared Blair's personal animosity toward several members of the Council of Virginia but also had a financial interest in supporting the commissary against other councilors in a dispute over the disposition of lands which had been endowed for the founding of a college in the colony.¹⁹ These factors undoubtedly influenced the attorney's negative characterization of the executive body as a whole including the alleged toleration of, and participation in, illicit

¹⁸ Ibid.

¹⁹ Warren M. Billings, John E. Selby, and Thad W. Tate, Colonial Virginia: A History (White Plains, N.Y., 1986), 153, 155, 162, 166.

trade and customs fraud by some of its members. Similar contention with comparable implications for accurately assessing the extent of maritime lawlessness in the region also must be taken into account in North Carolina, especially in the Culpeper Rebellion and the Blackbeard affair, and Maryland, in the conflicts between crown loyalists and supporters of the various Lords Baltimore.

While the motives of individual deponents may not have been entirely selfless, other informants and respected government officials often provided corroborative testimony of maritime wrongdoing. Such evidence notwithstanding, historians have demonstrated a peculiar predisposition to portray the royal colonies of the Chesapeake as the obedient children of empire in contrast to their unruly siblings, particularly the charter colonies of New England, despite substantial indications to the contrary. Charles M. Andrews, for example, concluded that a decrease in the number of complaints about the Navigation Acts after 1673 demonstrated that Virginians had reconciled themselves to the requirements of enumeration and the Plantation Duty and that passage by the assembly of an act imposing a two shilling per hogshead duty on tobacco exports should be viewed as proof that there was no significant opposition to the trade laws in general.²⁰ In describing an analogous

²⁰ Andrews, Colonial Period of American History, IV, 138.

situation in Jamaica, however, Andrews suggested that relief obtained through smuggling, not resignation to or compliance with the law, might account for a similar cessation of documented objections to trade restrictions.²¹ Nor did Andrews accept the passage of laws in New England requiring obedience to the Navigation Acts as an ipso facto indication of intent to comply, as he did with Virginia, but dismissed it rather as a mere smoke screen for the conduct of illicit trade.²²

In a study of Maryland trade in the late seventeenth and early eighteenth centuries, Margaret S. Morriss displayed a similar inclination to minimize the degree to which illicit trade was practiced and to exonerate the colonists of any culpability in that regard. After compiling an impressive list of ships reported to have engaged in illicit trade but never seized, Morriss inexplicably concluded, despite the obvious difficulty of policing Chesapeake waters against smuggling, that not much illicit trade could have gone undetected and doubted that the colonists generally collaborated in violating the Navigation Acts.²³

²¹ Ibid., 139-40.

²² Ibid., 140-42.

²³ Morriss, Colonial Trade of Maryland, 119 n. 160, 127, 129.

Almost any suggestion to the contrary, Morriss contended, could be attributed to such "prejudiced sources" as English customs authorities or colonial governors, and therefore could not be trusted.²⁴ But what other sources of information about illicit trade in the Chesapeake region might researchers reasonably expect to discover? Those who participated in illegal activities were certainly not about to volunteer self-incriminating testimony and, as far as other colonists were concerned, Benjamin Harrison explicitly set forth the reasons why they would have been reluctant to provide information. It could also be argued that colonial governors had more to lose, from the standpoint of perceived ineffectiveness, by reporting the full extent of maritime lawlessness within their jurisdictions than they stood to gain.²⁵

Since the perpetrators and collaborators carefully concealed their involvement, it follows logically that the bulk of information about illicit trade and customs fraud in the greater Chesapeake would have been supplied by the royal officials who were assigned to monitor and prevent such

²⁴ Ibid., 127.

²⁵ Even Lawrence Harper, who believed that illicit trade constituted "only a small fraction of . . . legitimate commerce" in the colonies, conceded that "governors . . . charged with enforcing the laws tended to find that they were obeyed" (The English Navigation Laws: A Seventeenth-Century Experiment in Social Engineering [New York, 1973], 248).

abuses.²⁶ Most prominent among these agents was Edward Randolph, surveyor general of the customs for the southern colonies from 1691 to 1703, and, to a lesser extent, his successor, Robert Quarry, who held the post from 1703 to 1714. Both men, especially Randolph, were extremely unpopular during their tenures and most historians have tended to be no less disparaging, characterizing each as "overzealous" or a "notorious exaggerator," and even, in Randolph's case, accusing him of fabricating false charges in the absence of any real proof of criminal activity.²⁷ Conceding that Randolph often was obsessive in his pursuit of trade law violators and that he was sometimes prone to exaggeration, other scholars have noted, however, that the testimony of contemporary royal governors like Francis Nicholson, later ones like Spotswood, and various independent sources frequently confirmed Randolph's charges and demonstrated the continuity and persistence of illegal trade in the greater Chesapeake.²⁸

²⁶ Ian K. Steele, Politics of Colonial Policy: The Board of Trade in Colonial Administration, 1696-1720 (Oxford, 1968), 44; Middleton, Tobacco Coast, 213.

²⁷ Billings, Selby, and Tate, Colonial Virginia, 167-68; Morriss, Colonial Trade of Maryland, 118, 131; Andrews, Colonial Period of American History, IV, 158; Mattie E. E. Parker in NCHCR, 1697-1701, xxix.

²⁸ Alfred T. Goodrick in Randolph, Letters, VI, 59; Hall, Edward Randolph, 150; Thomas C. Barrow, Trade and Empire: The British Customs Service in Colonial America 1660-1775 (Cambridge, Mass., 1967), 143-45.

How extensive was illicit commerce and customs fraud in the greater Chesapeake in actuality? Many historians have commented on the futility of trying to make any sort of realistic quantitative assessment concerning a range of activities which, by their very nature, demanded careful concealment and discouraged documentation.²⁹ In the absence of any consistently reliable or comprehensive body of data, however, it is possible to gain an impression of the scope of these activities from the accounts of royal and colonial officials who periodically offered estimates on the amount of revenue loss due to illicit trade within their jurisdictions. How the various functionaries arrived at their conclusions is rarely specified, but it appears that they drew their inferences from some combination of personal experience, reports from subordinates and informers, and, undoubtedly in some cases, the desire to influence government policy in the direction of either stricter or

²⁹ Leonidas Dodson, Alexander Spotswood: Governor of Colonial Virginia, 1710-1722 (Philadelphia, 1932), 62; Middleton, Tobacco Coast, 213; Rediker, "Anglo-American Sailors," 39; Robert E. Moody, "Massachusetts Trade with Carolina, 1689-1709," North Carolina Historical Review, XX (January 1943), 46; Barrow, Trade and Empire, 143; Williams, Contraband Cargoes, xi-xii. Acknowledging the problems intrinsic in any effort to quantify English smuggling in the tobacco and other trades during the colonial era, two historians nonetheless have made a serious attempt. See W. A. Cole, "Trends in Eighteenth-Century Smuggling," Economic History Review, 2d Ser., X (1958), 395-410 and Robert C. Nash, "The English and Scottish Tobacco Trades in the Seventeenth and Eighteenth Centuries: Legal and Illegal Trade," Economic History Review, 2d Ser., XXXV (1982), 354-72.

more lenient enforcement. Recognizing the inherent potential for bias, one may still glean useful information from these accounts and derive from them a sense of the extent of the problem, at least as the various officials construed it.

In the 1662 royal instructions to Governor Berkeley, English officials expressed their concern about not only the existence of customs fraud in Virginia but also its magnitude. The manner in which they did so, asserting that the amount of tobacco imported into England was simply "in no proportion to the Quantity yearly transported out of that our colony," suggests that while crown authorities were convinced of the gravity of the problem, they were not prepared to estimate, even roughly, the amount of revenue lost to smuggling and duty evasion in the Chesapeake.³⁰ Other, somewhat less ambiguous assessments in subsequent decades convey a sense of continuing frustration with a problem which government administrators obviously regarded as one of significant dimensions.

In 1692 and 1693 Edward Randolph estimated that the crown was losing between L4,000 and L20,000 annually due to customs fraud in Maryland and Virginia.³¹ Since a modern

³⁰ VMHB, III, 18; Gill, "The Naval Office in Virginia," 6.

³¹ Randolph, Letters, VII, 383, 447. Randolph offered no clear rationale for the wide disparity between the two figures. One possible explanation is that the larger number, which the surveyor general vaguely attributed to

analyst has determined that the net income to the government from tobacco duties probably was about L100,000 during those years, the low figure is not especially noteworthy, but the larger one represents a significant percentage of net tobacco revenues.³² Even more exceptional was the complaint registered by the Commissioners of the Customs, also in 1693, that, because of negligence or collusion on the part of customs officials in Maryland and Virginia, the Plantation Duty "hath been frequently compounded at little more than halfe Vallue."³³ Although such a sweeping appraisal seems improbably high, it nonetheless serves as an indication of how serious the home government believed the problem to be. Five years later, after the loss of the royal guardship assigned to the bay region, Randolph warned his superiors that unless they replaced the vessel quickly, "the King will lose more in his customs than would support five men-of-war at home."³⁴

Some officials and interested private parties offered more specific estimates of revenue losses. In 1694 an

"want of good officers," refers to total revenue losses as a result of all illicit trade in the two colonies while the smaller estimate may concern only the amount of duties evaded specifically through the use of forged certificates, an abuse which Randolph had discussed in the previous sentence of his letter to William Blathwayt.

³² Morriss, Colonial Trade of Maryland, 45-46.

³³ Md. A., XX, 125.

³⁴ CSPC, XVI, #769, p. 402.

English customs agent reckoned that the crown was being cheated out of £50,000 a year as a result of illegal trade between Scotland and the "sugar and tobacco-plantations" in America.³⁵ The same year London merchant Micajah Perry alleged that, by means of one tobacco smuggling method alone, contrabandists operating between Virginia and Scotland were defrauding the royal revenue of at least £60,000 per year, a charge corroborated by other English merchants.³⁶ Considering that the crown's total income from tobacco duties amounted to about £130,000 in 1689, these figures are staggering even if, as skeptics might argue, they were somewhat exaggerated.³⁷

A certain degree of overstatement may be expected from individuals whose personal business profits were being reduced by the activities of illicit traders, but the motives of others who complained about customs fraud were not always as self-serving. Occasional reports concerning the evasion of local tariffs in the greater Chesapeake are particularly revealing in this context. Because provincial duties were enacted by colonial legislators, presumably with local interests rather than those of the home government in

³⁵ Stock, Debates, II, 111.

³⁶ Ibid.

³⁷ Middleton, Tobacco Coast, 124; Margaret M. Morriss' investigation of the crown's net tobacco duty receipts suggests that £130,000 probably was a maximum estimate and that the actual revenue likely was substantially less (Colonial Trade of Maryland, 46 n. 156).

mind, one would expect substantially greater success in the collection of such revenues.

But the record suggests otherwise. In 1736 the Virginia assembly passed legislation designed to eliminate, or at least reduce, "vast frauds" in the collection of the slave duty perpetrated on a scale such that "hardly one half of the said duties hath been paid into the treasury."³⁸ Almost two decades later, North Carolina governor Arthur Dobbs asserted that, in a colony which raised only about L12,000 in various taxes annually, the revenue from the duty on wine and spirits alone could be increased by L2000 a year "if duly collected" by "a proper Officer" stationed at a location less susceptible to evasion by smugglers than the checkpoints which the government currently employed.³⁹ Such testimony implies that if the colonists indeed engaged in customs fraud to a significant degree, at least they were indiscriminate about whose duties they chose to evade.

Apart from direct calculations of monetary losses, customs records reflecting the degree of compliance with, or infringement of, the Navigation Acts offer further evidence of the extent of contraband trade in the Chesapeake. In 1697 Maryland governor Nicholson sent a letter to the Board of Trade describing the resistance he had encountered in the colonial courts and assembly to his efforts to restrict

³⁸ Hening, Statutes, IV, 471.

³⁹ CRNC, V, 640.

illegal commerce. Along with the letter he submitted several enclosures including two lists, one of 60 trading vessels that had embarked from Maryland and eventually produced the necessary documentation to show that their captains had completed the voyages in accordance with requisite procedures for shipping enumerated goods under the trade laws and another list of 115 craft that had failed to do so, presumably because they had delivered their cargoes to foreign ports.⁴⁰ The disparity between the number of ships that failed to adhere to the customs laws and those that did, a ratio of nearly two to one, is all the more remarkable considering that this statistic does not even take into account an array of evasive and deceptive procedures (not to mention the bribing of customs officials) that contraband traders regularly employed while maintaining a "pro forma" compliance with official registration and inspection procedures.

Some indirect evidence also suggests that contraband trade and duty evasion were far more prevalent than the surviving, documented instances of official seizures and condemnations would seem to indicate. In June 1699 the collector for the Rappahannock River district reported the seizure of the Providence of Dublin for the illegal importation of goods from Ireland with no certificates or

⁴⁰ Md. A., XXIII, 86, #6, #7.

cocquets.⁴¹ The arrest itself was rather unusual, but what makes the case particularly noteworthy is the recorded testimony of sailors and servant passengers indicating how fortuitous such seizures were and, conversely, how little risk of detection illicit traders normally assumed. The declarations of the deponents in the case make it clear that the smuggled wares never would have been discovered had it not been for the accidental staving in of one of the casks which contained the contraband. As an English man-of-war approached, witnesses overheard the shipmaster and the merchants deliberating about what should be done with the goods, "whether they should be thrown overboard or how disposed off." The smugglers finally decided to conceal the merchandise elsewhere on board, although it is unclear whether they did so because they doubted the ability of the warship's personnel to discover the contraband or because they feared that they might be spotted heaving the goods into the bay. In any event, navy and customs officials knew nothing of the deception until notified by informants after the ship had landed.⁴²

Accidental discoveries like this one combined with other factors -- the testimony of informants, regulatory officers, and governors; the relative ease with which unlawful traders deceived, avoided, or secured the

⁴¹ Reese, ed., Virginia Vice-Admiralty Court, 12-13.

⁴² Ibid., 16-17.

cooperation of customs officials; and the failure of contemporary authorities and modern historians to take into account the cumulative effect of the many small vessels which regularly conveyed contraband cargoes around the bay and along the coasts -- imply that illicit commerce was conducted throughout the greater Chesapeake to a greater extent than scholars generally have acknowledged.

Given the imprecise, intermittent, and generally problematic nature of contemporary efforts to ascertain the magnitude of contraband trade in the region, it also may be useful to approach the issue as one might in a court of law, by establishing the motives and opportunities for engaging in customs fraud. Some historians have theorized that the amount of illegal commerce in the colonies was a function of two factors, the relative rate of customs duties and the ease or difficulty of smuggling.⁴³ The absolute value of any particular set of customs duties was not in itself always a critical determinant since a two shilling per hogshead duty on tobacco in a prosperous market, for example, might have been regarded as considerably less onerous than a duty half that amount when profit margins were slim or nonexistent.

Obviously, then, the degree to which duties represented impositions worthy of active avoidance depended on the

⁴³ Shepherd and Walton, Maritime Trade, 205.

perceptions and financial circumstances of those required to pay them. Colonists who experienced economic privation, who felt that they were being exploited and discriminated against, and who had occasion to mitigate the effects of oppressive regulations by disobeying them without great risk or effort would seem to be likely candidates for participation in illicit trade. And if it is true that incentive and opportunity determined the volume of illegal commerce, then there is additional reason to believe that circumvention of the trade laws and evasion of customs duties occurred more regularly and to a much greater extent in the greater Chesapeake than historians traditionally have recognized.

The most obvious inducement to illicit trade and the evasion of customs duties was economic hardship, a condition which afflicted residents of the greater Chesapeake with considerable regularity. The Navigation Act of 1660, which listed tobacco as one of the enumerated goods that could not be exported to European markets except through England, might have been palatable to the Chesapeake planters if England herself could have increased consumption, maintained stable prices for the commodity, and kept customs rates at a relatively low level. But restricting the trade to an English market which failed to increase consumption substantially after the 1680s instead resulted in an

oversupply that reduced prices.⁴⁴ Under the home government's drawback system, tobacco could be shipped to England and re-exported to continental Europe without, in effect, having to pay any import duties, but the extra costs involved in the process further reduced profit margins.⁴⁵ And although Europe replaced England as the principal outlet for Chesapeake tobacco after 1700, it was not until an expansion of the continental market after about 1715 that three decades of hardship in the colonial tobacco industry came to an end.⁴⁶

Periodically during those thirty years of adversity, many planters found themselves in dire economic straits such as those that produced the plant-cutting riots of 1682. Fifteen years after the disturbances, Maryland governor Francis Nicholson reported that "the low price of tobacco has obliged many of the planters to try their fortune elsewhere."⁴⁷ Carolina explorer and chronicler John Lawson observed in 1709 that "tobacco is a Commodity

⁴⁴ John J. McCusker and Russell R. Menard, The Economy of British America, 1607-1789 (Chapel Hill, N.C., 1985), 124; Andrews, Colonial Period of American History, IV, 88-89.

⁴⁵ Andrews, Colonial period of American History, IV, 88-89.

⁴⁶ McCusker and Menard, Economy of British America, 123-24.

⁴⁷ CSPC, XV, #1178, p. 546.

oftentimes so low, as to bring nothing."⁴⁸ Two years later Virginia merchants and planters complained that they actually were having to sell thousands of hogsheads of tobacco for less than the amount of the customs duties.⁴⁹

Under such circumstances, any duties at all would have seemed oppressive. But rather than provide some relief by lowering customs rates, the English government periodically raised the impost on tobacco imported into England despite the protests of those involved in the trade.⁵⁰ Scholars disagree over the extent to which Chesapeake planters, as opposed to English consumers, were made to bear the burden of the increased costs of re-exportation and higher duties, but the consensus among historians is that, regardless of the reality of the situation, the colonists believed that the commercial policy of the home government was responsible for the hardships that the tobacco growers experienced.⁵¹

⁴⁸ John Lawson, A New Voyage to Carolina, Hugh T. Lefler, ed. (Chapel Hill, 1967), 167.

⁴⁹ CO5/1316, p. 69; CSPC, XXVI, #117, p. 111; Dodson, Alexander Spotswood, 43-44.

⁵⁰ Andrews, Colonial Period of American History, IV, 89, 139; George L. Beer, The Old Colonial System 1660-1754 (New York, 1933), I, 160-63; Samuel M. Rosenblatt, "The Significance of Credit in the Tobacco Consignment Trade: A Study of John Norton and Sons, 1768-1775," WMQ, 3d Ser., XIX (1962), 389-90.

⁵¹ Although English authorities stated their intention that the tobacco impost of 1685 not be "laid on the Planter or Merchant, but only on the [English] Retailer, Consumptioner, or Shopkeeper," yet the Virginia burgesses could not be dissuaded that the tax, "though designed to fall on the retailer and consumer, would surely fall on the

Contemporary accounts continued to reflect that conviction. Despite a generally positive trend after 1715, the prosperity of the tobacco industry was chronically subject to extreme fluctuations. Describing the planters' dilemma in 1724, Hugh Jones lamented that with "the Charges and Duties far over-balancing the price of the Tobacco . . . of late Years they sometimes get little or nothing by it, but Trouble and Loss; because of the great Expence in making and sending it Home to Market, and the great Duties which are paid out of it, and the small Price it usually bears."⁵² Nearly a decade later, a Maryland agent complained to British authorities about "the exceeding poverty of the people . . . occasioned by" tobacco prices

planter" (cited in Beer, Old Colonial System, I, 162, 163). Several months after the impost went into effect, the colonists remained deeply skeptical. Virginia governor Effingham could not help "but wonder at their cautious, or rather, peevish temper" in having been "discouraged, either from shipping their present Crops, or planting any for ye future" (Henry R., McIlwaine, ed., Legislative Journals of the Council of Colonial Virginia [Richmond, 1918-1919], I, 67). Amplifying the colonial lawmakers' and planters' view, Charles Andrews wrote that the tobacco impost in England was "always the most serious incumbrance resting upon the tobacco industry in the colonies" (Colonial Period of American History, IV, 139). Beer (Old Colonial System, I, 166-67), and more recently Rosenblatt ("The Significance of Credit," 391) and Nash ("Tobacco Trades," 369), however, have indicated that the increased cost of the various imposts most likely was passed on to English consumers. Concerning Chesapeake tobacco growers blaming their problems on English commercial policy more generally, see McCusker and Menard, Economy of British America, 123.

⁵² Hugh Jones, The Present State of Virginia (1724), Richard L. Morton, ed., (Chapel Hill, N.C., 1956), 144; Elizabeth E. Hoon, The Organization of the English Customs Service, 1696-1786 (New York, 1938), 252 n. 2.

"so low that the makers of it have been brought to the want of many of the necessaries of life."⁵³

And while the volatility of the tobacco exchange constituted a paramount concern for colonial planters, it was hardly the only one. Virginia governor Edmond Andros explained to his superiors in 1695 that tobacco shipments were also "liable to the charge of clearing here, to the hazard of the voyage, to payment of duty and to an uncertain market, and, if all be well, the time will be long before the proceeds can be applied to answer the intent."⁵⁴ As a result, many Chesapeake planters and merchants considered their responses to the succession of trade regulations not, as the English authorities did, in terms of criminal behavior versus compliance with the law, but rather as a question of whether the British colonial system was permitting them to earn even a modest living without undue restraint.

Ironically, it was a royal official, Governor Berkeley, who in 1651 articulated the views of Virginia planters when he charged the Rump Parliament with tyranny in forbidding colonists "to buy, or sell but with those they shall

⁵³ CSPC, XL, #61 iv., v., p. 49. For a detailed analysis of the shifts in the tobacco market and their effect on Virginia's planters and the colonial economy see John M. Hemphill II, Virginia and the English Commercial System, 1689-1733: Studies in the Development and Fluctuations of a Colonial Economy under Imperial Control (New York, 1985), especially chapters I and II.

⁵⁴ CSPC, XIV, #1871, p. 497.

Authorize with a few trifles to Coszen us of all for which we toile and labour."⁵⁵ Disenchantment with the Navigation Acts persisted when the Chesapeake economy shifted from tobacco to grain production. Colonists who feared that the Molasses Act of 1733 would severely restrict their foreign grain markets in the West Indies and limit their supplies of rum and molasses widely ignored the legislation.⁵⁶

Fueling the colonists' resentment was the suspicion that, while they struggled and often failed to make ends meet, fellow Englishmen in the home country were profiting disproportionately at the planters' expense. In 1673, after reminding the Earl of Shaftesbury that, as far as crown revenues were concerned, "Virginia is of as great importance to his Majesty as the Spanish Indies to Spain," Sir John Knight issued a grave warning. So unhappy were the planters with the adverse effects of English trade restrictions upon their livelihood, "they saying openly that they are in the nature of slaves," that "his Majesty's best, greatest, and richest plantation is in danger, with the planters' consent, to fall into the enemy's hands."⁵⁷ Chesapeake residents continued to be reminded of the benefits that accrued to

⁵⁵ VMHB, I, 76; Andrews, Colonial Period of American History, IV, 28.

⁵⁶ Middleton, Tobacco Coast, 211; Barrow, Trade and Empire, 143.

⁵⁷ CSPC, VII, #1159, p. 530.

Englishmen as result of their labors in the eighteenth century. "Your hive of Virginia brings a great deal of Honey to this Nation," a Virginia agent in London reported to the colony in 1711, "and costs them nothing."⁵⁸

The planters' displeasure focused not only on the English authorities who passed restrictive trade legislation but also on the merchants, especially London traders, who, many colonists concluded, were influencing the government to do so.⁵⁹ In restating his objections to the Navigation Acts in the 1660s, Governor Berkeley expressed his unwillingness to aggrandize a relatively small group of English merchants at the expense of an entire colony.⁶⁰ Responding to imperial exhortations to enact a law forbidding the colonial export of tobacco packaged in "bulk" (that is, in loose parcels as opposed to hogsheads), a committee of Virginia burgesses considered "by what means it was Represented to his Ma^{tie} That We . . . resideing here should desire such a prohibition" as the king evidently had been led to believe. After conducting a "strict Examination & search to Informe themselves," the burgesses concluded that the instigators were none other than "severall Merchants . . . in London who conceiving such a law . . .

⁵⁸ VMHB, IV, 20-21; Dodson, Alexander Spotswood, 113 n. 2.

⁵⁹ Morriss, Colonial Trade of Maryland, 102.

⁶⁰ Andrews, Colonial Period of American History, IV, 137.

would answer their Particular Interest & profit . . . did boldly and p^rsumptuously . . . petition his Majestie without our privities knowledge & agreement . . . setting forth on our behalves that it would be much for the advancement & good of this Country."⁶¹

English factors continued to be objects of colonial antipathy in the eighteenth century. In 1709 members of the Maryland assembly complained to the king that the London merchants, while assuming minimal risk themselves, charged exorbitant freight rates on tobacco shipments from the Chesapeake. And though, as a result, the planters had little to show for their efforts, the "Factors thereby with little Hazard most certainly" gathered vast sums "by their Commissions and other Perquisites."⁶²

The colonists also resented the English merchants' opposition to measures intended to provide customs relief and to stimulate the Chesapeake economy. To encourage ship ownership in Virginia, the colonial assembly enacted legislation in the early eighteenth century exempting Virginians who owned vessels from various provincial duties and fees.⁶³ Within a decade, however, the home government moved to disallow the acts as prejudicial to British

⁶¹ JHB, 1659/60-1693, 317.

⁶² Md. A., XXVII, 465; Morriss, Colonial Trade of Maryland, 96.

⁶³ Hening, Statutes, III, 230, 347, 494.

shipowners, provoking the colonists' ire for succumbing so thoroughly, the Anglo-Americans believed, to the wishes of British merchants.⁶⁴

In 1734 the Board of Trade acted in a similar fashion by instructing colonial governors not to permit the enactment of "any laws, whereby the Inhabitants of the Plantations may be put upon a more advantageous Footing than those of Great Britain." Specifically, provincial legislators were forbidden "to pass any Law, by which greater Duties . . . shall be laid on Ships or Goods belonging to the Subjects of Great Britain, than on those of the Inhabitants of the Plantations."⁶⁵ So irritated were the colonists by these restraints that they even dared to suggest a fundamental alteration of the Navigation Acts. But their proposal, one designed to benefit colonial planters by permitting the direct shipment of tobacco from Virginia to France, stood little chance of approval probably because, as the royal governor who supported the measure surmised, it would "be disagreeable only to the gentlemen in London, who will thereby lose the commissions upon the sales of so much tobacco."⁶⁶

⁶⁴ CSPC, XXV, #709, p. 408; Middleton, Tobacco Coast, 280-81; Percy Scott Flippin, William Gooch: Successful Royal Governor (Williamsburg, Va., 1924), 15.

⁶⁵ C05/5, p. 44; C0324/12, pp. 65-66.

⁶⁶ William Gooch to the Board of Trade, 5/15/1739, C05/1324, pp. 333-34. Actually, the colonists' proposal was not as farfetched as it might seem. In 1707, during Queen

Similar tensions had arisen in 1722 when Parliament passed an act prohibiting the importation into England of tobacco stripped from the stalk.⁶⁷ The crown's rationale for such a policy had been expressed as early as 1695 when Maryland governor Nicholson recommended that the tobacco fleet be dispatched from England as early in the new year as possible since "the winter being a time of much leisure, the people have opportunity of stripping and cutting their tobaccos, whereby the King loses near a quarter of his customs."⁶⁸ For the planters, the requirement to send their tobacco unstripped meant not only additional customs charges, but increases in all the costs associated with greater product weight and volume: additional packing, inspection and lighterage fees; more hogsheads; and added insurance and freight charges. Although the colonists eventually succeeded in persuading Parliament to rescind the act, many British merchants opposed the repeal effort.⁶⁹

Anne's War, the Board of Trade itself recommended to the king the direct importation of tobacco from the Chesapeake to Europe "to Ease the Tobacco Trade," the rationale being that "otherwise 'tis to be feared that those Northern Countries formerly supplied by your Majesty's Subjects with great quantities of Tobacco may in time be wholly furnished from another Market" (CO5/1362, p. 245). The Dutch were particularly active at that time in growing tobacco and selling it on the continent. See Middleton, Tobacco Coast, pp. 141-43.

⁶⁷ Middleton, Tobacco Coast, 129.

⁶⁸ CSPC, XIV, #1896, p. 509.

⁶⁹ Middleton, Tobacco Coast, 128-29; Hemphill, Virginia and the English Commercial System, 74-75.

Colonial disaffection for London traders may have been expressed most explicitly in 1732 when Robert Carter, president of the Council of Virginia, complained to Micajah Perry about the "Oppression of the merchants . . . and . . . the many destructive articles that have of late years been found to deprive us of the greatest part of the Profit of our Labours."⁷⁰ Carter was referring specifically to the merchants' success in convincing Parliament to pass legislation favoring their interests in the collection of debts owed by the planters and the British traders' active opposition to an excise scheme, proposed by Prime Minister Robert Walpole, designed to shift the burden of tobacco duties from the Chesapeake growers to the British public.⁷¹ The council president chose not to speculate on what the consequences of these developments might be, but he did advise Perry that the "general crye that hath bore down all before it" in the colony recently had been that it was "more elligible to relye on the mercy of our Prince than to be subjected to the tyranny of the merchants who are daily encreasing their Oppressions upon us."⁷²

⁷⁰ Cited in Hemphill, Virginia and the English Commercial System, 228.

⁷¹ Ibid., chapter VI; Billings, Selby, and Tate, Colonial Virginia, 242-44.

⁷² Cited in Hemphill, Virginia and the English Commercial System, 228.

An additional inducement to engage in proscribed trade was the desire to obtain scarce and much coveted specie.⁷³ In the early eighteenth century John Lawson reported that North Carolina, otherwise poor and lacking in the natural resources to produce significant wealth, was "more plentiful in Money, than most, or indeed any of the Plantations on the Continent." The source of the coin, Lawson explained, was the Dutch island of Curaçao with which the Carolinians carried on a thriving illicit trade.⁷⁴ By mid-century, however, the North Carolinians appeared to be no better off with regard to the availability of specie than the other colonies. Noting "the great scarcity of silver & gold," a committee of assemblymen in 1746 complained about the "very great grievance" of not being allowed to pay their quitrents in the "produce of this Province."⁷⁵ Geography and unsympathetic neighbors combined to create a further rationale for Albermarle residents to resort to smuggling since the colony's ports could not accommodate large ships and Virginia, which offered the closest deep water harbors,

⁷³ Ibid., 9-10; NCHCM, 1709-1723, xx.

⁷⁴ Lawson, Voyage to Carolina, 10. Lawson neglected to mention another form of illicit commerce that contributed significantly to the colony's accumulation of specie at that time: trading with pirates. See below, chapter VI.

⁷⁵ CRNC, IV, 824.

charged prohibitive fees on Carolina commerce and banned the export of Carolina tobacco through Virginia ports.⁷⁶

If Chesapeake colonists had ample incentive to conduct illicit trade they had equal or greater opportunity to do so. Although customs collectors and naval officers frequently connived with planters and shipmasters to breach or circumvent the law, perhaps the greater percentage of smuggling and duty evasion did not require the cooperation of venal officials at all. The vast stretches of shoreline bordering the Chesapeake Bay and its tributaries as well as the Atlantic coast with its many banks and islands offered innumerable possibilities for conducting illicit trade with little fear of detection. Even Charles Andrews, who did not believe that illicit trade constituted a serious problem in any of England's American colonies, conceded that customs evasion was easiest in areas with long, indented shorelines with many creeks, inlets, and rivers and few established ports, precisely the conditions which prevailed throughout much of the greater Chesapeake.⁷⁷

Contemporary authorities were also well aware of the difficulties that the geography of the region created. Edward Randolph reported to British authorities in 1692 that

⁷⁶ Ibid., II, 762-63; Hugh T. Lefler and William S. Powell, Colonial North Carolina: A History (New York, 1973), 49; Middleton, Tobacco Coast, 128.

⁷⁷ Andrews, Colonial Period of American History, IV, 238, 241; Moody, "Massachusetts Trade with Carolina," 45.

"every vessel runs into a different bay, so that it is endless work for a diligent officer to keep an eye on them."⁷⁸ In many cases, no amount of diligence could overcome the remoteness of customs officials from the areas of greatest illicit trade activity. "Clandestine trade is easy," a deponent informed the Board of Trade about maritime law enforcement in Maryland in 1691, "as the collectors live far up country."⁷⁹

The situation seems to have improved little in almost twenty years when another private individual complained to the Board of Trade that Virginia had only four customs houses, some of which were far from the principal trading entrepôts, and that many rivers had no customs officials at all "to See what is Done by Shiping." Even if the government managed to station officers wherever vessels normally unloaded and took on goods, the informant contended, "10,000 Men Could not performe it. To Keep Shiping from Landing And taking of Good by Stelth."⁸⁰ The problem that geography imposed on the policing of maritime trade in the greater Chesapeake was never resolved adequately. In 1730 and again in 1743 Virginia governor William Gooch had to admit that "after all it is impossible altogether to prevent the running of . . . prohibited goods,

⁷⁸ CSPC, XIII, #2295, p. 660.

⁷⁹ Ibid., #1951, p. 578.

⁸⁰ Cited in Dodson, Alexander Spotswood, 62-63.

when there are so many landing places remote from the inspection of any officer."⁸¹

Geography, however, was only one of several major impediments to effective trade law enforcement in the greater Chesapeake. Among the most intractable problems crown officials had to contend with were those posed by local populations which, in cooperation with foreign and other Anglo-American confederates, displayed considerable ingenuity and resolve in circumventing and deceiving royal customs agents.

⁸¹ "William Gooch, Official Correspondence," 3 vols. (Colonial Williamsburg Research Library typescript), vol. 1, Gooch to the Board of Trade, July 23, 1730 and vol. 3, Gooch to the Board of Trade, August 22, 1743; VMHB, III, 118; Flippin, William Gooch, 16.

CHAPTER III

A "Customes Treasure . . . never more infatuated, cheated and exhausted": The Ways and Means of Illicit Trade

The sheer variety of methods used to conduct illicit trade in the greater Chesapeake offers a further indication of the extensiveness of the practice and also testifies to the resourcefulness and determination of those who engaged in it. Taking advantage of the venality of customs officials, a popular option examined in a subsequent chapter, was one way to beat the system, but it had certain drawbacks. Bribery, whether in the form of cash or commodity payments or some kind of kickback, could be expensive and, in districts with scrupulous customs officers, risky. Alternatively, those wishing to maximize profits through illicit trade could choose from a wide range of options which may be classified broadly under the headings of misrepresentation and evasion.

The procedures for "clearing" and "entering" required shipmasters to make sworn statements as to the nature and volume of their cargoes and to take out a bond obligating them to land their goods only at ports permitted by the applicable navigation statutes. Upon entering a given port,

shipmasters were required to produce all the necessary documentation to prove that they had cleared properly from their port of embarkation. Local customs officials could then check the itemized cargo registers, or "cocquets," to verify concordance with the actual shipment. Assuming that all was in order, the customs agent then authorized the unloading of the incoming cargo before certifying and bonding the outgoing one.

The simplest method to avoid or reduce duty payments when dealing with royal revenue officers was to underreport the volume of the lading. Maryland governor Nicholson asserted in 1697 that the amount of tobacco that shipmasters officially registered in clearing was "commonly less than they have on board."¹ Alternatively, shipmasters might purposely misrepresent the nature of the cargo, trusting in either case to the cooperation of the customs inspector in not attempting to verify the declaration or to the official's inability to do so. One reason why shippers could get away with such deceptions was that ships' holds were notoriously difficult places to examine under any circumstances, but particularly so when filled, even

¹ CSPC, XV, #1178, p. 548. A method of comparable or perhaps even greater simplicity involved doing what Governor Nicholson reported "Most Masters . . . of Ships doe," that is, conduct their affairs however they pleased and then, if caught, "to plead Ignorance to such Laws of this Province as doe any wayes narrowly touch or concern them" (Md. A., XX, 278). Such lawbreakers no doubt anticipated, with good reason, that a sympathetic jury of their peers would acquit them summarily.

partially, with quantities of goods stacked in rows of barrel casks.² As a result, customs inspectors usually had little choice but to rely on the sworn statements of ship captains and masters.

These declarations, known as "custom house oaths," acquired such a reputation for unreliability throughout the English empire that the term became practically synonymous with a lie. As an eighteenth-century merchant reported, "many are tempted to Perjure themselves . . . And to this End 'tis observable, that in Places of Trade, a Poysonous sort of doctrine is slily and artificially insinuated among Masters of Ships, Common Saylor's and Porters . . . that a Custom-House Oath is nothing but a matter of Form."³ Despite the flagrant and almost universal disregard for the solemnity of such vows, for centuries English officials had little alternative but to accept them, and customs agents continued to do so in the colonial era.⁴

The problem of having to rely on these statements was exacerbated in the Chesapeake region by government

² A Maryland collector, for example, complained in 1698 of the "great Difficulty in Searching of Ships," declaring that it was "Morally Impossible to do his Duty thoroughly as he Ought by reason of the Narrowness & Darkness of the Ships holds" (Md. A., XXIII, 402).

³ Cited in Hoon, English Customs Service, 246.

⁴ Williams noted that, despite hundreds of documented cases of customs fraud in medieval England, there was no evidence of even a single prosecution for perjury (Contraband Cargoes, 15).

officials' chronic inability to examine vessels in many dispersed and distant locations, a situation which caused Edward Randolph to bemoan the fact that, under the circumstances, a customs officer had "nothing to satisfy him that the master had been trading legally but his oath."⁵ The dubious value of such pledges notwithstanding, in 1699 Virginia's attorney general, acting on the governor's orders, prepared a new oath requiring shipmasters operating in the colony to "give a true and exact acco^t" of not only "all such Tobaccos and other good's and merchandizes as shall be taken on board," but also the possessions of every passenger. "All this," mariners were admonished sternly, "you shall swear without any Equivocation Mentall Reservation or other Evasion So help you God."⁶ Almost two decades later, however, Alexander Spotswood reiterated previous arguments for more stringent ship inspection procedures "since it seems the Masters have so many occasions to make their Oaths of no Effect," with many regarding their declarations as nothing more than "so many words of form to enter . . . hogsheads at half the weight they contain."⁷

In customs districts where shipping activities were more centralized and collectors and naval officers were

⁵ CSPC, XIII, #2295, p. 660.

⁶ EJC, II, 34.

⁷ Spotswood, Letters, I, 29, 76.

located more conveniently to oversee them, contraband goods ran a greater risk of discovery, particularly aboard smaller vessels and in the uppermost cargo rows of larger ones where conscientious customs officials could gain access more readily. Under the threat of actual inspection, smugglers had to resort to more elaborate measures of concealment. One method of disguising the contents of shipping containers, described by secretary of Maryland Sir Thomas Lawrence in 1695, was to pack tobacco in bread casks covered with flour at each end.⁸ The same year, the Maryland governor received reports that "his Ma^{ts} Duty for Importacon of Liquo^{rs} . . . have been much defrauded by concealing & hiding . . . Brandy Rum & other Spirits, And wine wthin Caske pretended to be filled with Bisket and ffloore."⁹ Variations of this practice apparently continued well into the next century. In 1723 the president and masters of the College of William and Mary instructed their agent, John Randolph, to inform English treasury and customs officials that the revenue from the penny per pound Plantation Duty established for the benefit of the college was "very much sunk," a principal reason being that shippers "carry out Tobaccos in barrels, entered as beef or pork, or concealed

⁸ CSPC, XIV, #1916, p. 520.

⁹ Md. A., XX, 280; Morriss, Colonial Trade of Maryland, 128-29 n. 216.

under corn, and hogsheads of Tobaccos at weights much less than they really weigh."¹⁰

A clever tactic employed to deceive customs officials about cargo weights was to load heavier hogsheads first so that a 400 pound cask, for instance, when removed by the collector from the top of the hold to be weighed as a representative sample, would be used to calculate the total tonnage of the lading. Under this scheme, the lower cargo rows actually would be composed of casks of similar size, but packed tightly so as to weigh up to twice as much. Scottish merchants and shippers who used this artifice to their advantage offered planters an additional two shillings and sixpence for each hogshead over 500 pounds.¹¹ Since some duties (as well as transportation and handling charges)

¹⁰ William Stevens Perry, ed., Papers Relating to the History of the Church in Virginia, A.D. 1650-1776 (Hartford, Connecticut, 1870), 549 (cited hereafter as Perry, Church Papers). Some historians have viewed smuggling efforts on such a relatively small scale as indicative of the pettiness and comparative insignificance of illicit trade in the colonies. According to Lawrence Harper, for example, "the true significance of the tobacco hidden in the flour" lay not in the deception itself, but "in the fact that the fraud was measured in terms of casks and not by shiploads" (English Navigation Laws, 258). Disguising tobacco as other goods constituted only one of many forms of deception, however. Others, such as loading after clearing and the circumvention of customs authorities altogether, clearly did amount to fraud by the shipload (see below, pp. 78-84).

¹¹ Stock, Debates, III, 461, 462; Theodore C. Barker, "Smuggling in the Eighteenth Century: The Evidence of the Scottish Tobacco Trade," VMHB, LXII (1954), 387-99, 396. As a result of the success of this scam, tobacco re-exports from Glasgow in certain years exceeded registered imports, according to Neville Williams, by 1,500,000 pounds (Contraband Cargoes, 92).

were computed according to the number of hogsheads rather than their weight, planters and shippers also had a considerable inducement to use larger casks.¹² Despite the passage of legislation in Maryland and Virginia regulating the size of hogsheads, Maryland governor Nicholson complained in 1695 that coopers continued to produce casks "farr exceeding the Dimenssions in the said Act . . . to the great prejudice and Lessening of his Ma^{ts} Revenue."¹³

Besides deceiving customs officials about the weight, volume, and nature of cargoes, smugglers also occasionally sought to conceal the identity of the ships themselves. In 1698 local customs officers notified the Commissioners of the Customs in England that a certain vessel had departed from the James River without clearing and was believed to be headed for Scotland with a cargo of uncustomed tobacco. Although Virginia officials identified the craft and its owners by name, English authorities doubted that it would be possible to distinguish the merchantman from other vessels trading to Scotland as, they had learned, it had long been "the practice to change ships' names and otherwise to disguise them on such occasions."¹⁴

¹² Middleton, Tobacco Coast, 129.

¹³ Md. A., XX, 277.

¹⁴ CSPC, XVI, #684, p. 349.

Falsification of one or more of the official documents used to enter and clear vessels was another popular form of deceit.¹⁵ Complaining about the use of forged papers in Maryland and Virginia, Edward Randolph advised royal authorities in 1692 that "at Glasgow they have false seals of the Customs houses of Whitehaven, Beaumaris, etc., and also blank certificates, some of which are so exactly filled up with counterfeited hands that they deceive the collectors."¹⁶ Randolph and other officials frequently cited examples of vessels which they had seized for attempting to pass through customs with forged documents.¹⁷ Within days of enacting the 1696 navigation law, the Lords of Trade issued a circular to colonial governors instructing them to warn customs officials to be on the lookout for counterfeit certificates.¹⁸

Although Francis Nicholson indicated early in 1697 that he had instituted effective measures to identify forged papers, only two years later naval officers requested the governor's assistance in dealing with a duty evasion scheme "usually practised heretofore" involving the production of

¹⁵ Randolph, Letters, V, 117; Md. A., XX, 124, 346-47; Andrews, Colonial Period of American History, IV, 206.

¹⁶ CSPC, XIII, #2295, p. 660.

¹⁷ Ibid., pp. 656, 657, 659; Randolph, Letters, VII, 348-49; Md. A., XX, 124.

¹⁸ Md. A., XX, 567, 570; Andrews, Colonial Period of American History, IV, 175.

false documents indicating that bond had been posted with customs officials on the western side of the bay for tobacco which was to be picked up on the Eastern Shore.¹⁹ Similar instances of attempts to pass off bogus documents continued to be recorded well into the next century.²⁰

An alternative to fooling customs officers directly through forgery, false packing, and disingenuous oaths was to defraud the system by avoiding the customs apparatus entirely. This option was most effectively exercised in areas of the greater Chesapeake with relatively protected anchorages closest to the ocean (the Atlantic coast of Virginia's and Maryland's Eastern Shore and North Carolina's Outer Banks, for example, as well as locations within the bay close to the Virginia Capes) which afforded authorities little opportunity for discovery between the time that vessels discharged and reloaded illegal cargoes and made their getaway to the open sea.

Edward Randolph described a very efficient and well organized operation on the Eastern Shore of Maryland and Virginia in which the practitioners purchased tobacco from the mainland which they exchanged for goods from an incoming ship, assisting "with Boats Sloops to get the Goods a Shoar

¹⁹ EJC, II, 35; CSPC, XVII, #1078, p. 578.

²⁰ Md. A., XXIII, 86; N.C. St. Arch., CCR 142, doc. no. 26; Marion L. Starkey, The First Plantation: A History of Hampton and Elizabeth City County, Virginia, 1607-1887 (Hampton, Va., 1936), 17.

before the Vessel is Entred." All this was accomplished without the slightest knowledge of customs agents since "the Vessel lying in some obscure Creek 40 or 50 Miles distant from the Collect^{rs} Office . . . in a short time is Loaded and Sayles out of the Capes undiscovered."²¹ A Maryland official reported a similar scheme in 1696 executed by locals in conjunction with other contrabandists who navigated a sloop from Philadelphia into an inlet on the ocean side of Somerset County and "having her loading of Tob^o Provision and other Goods ready provided for her, tooke the same on board and went away therewith without Entring or Clearing."²² North Carolina governor George Burrington described a comparably sophisticated operation in 1734 in which a ship carrying prohibited goods landed in the harbor of Ocracoke and had its cargo transferred to a local craft (undoubtedly of shallower draft) which then navigated through Pamlico and Albermarle Sounds across the colony's northern border where the goods ultimately were delivered to Virginia merchants. The governor confessed that neither he "nor any of the Custom House Officers knew anything of this Stratagem" until well after the series of clandestine transactions had taken place.²³

²¹ Randolph, Letters, V, 118.

²² Md. A., XX, 463.

²³ CRNC, IV, 170-71.

Another class of evasive maneuvers involved diverting contraband export cargoes away from the main shipping channels, where the possibility of discovery was greatest, to regions even less effectively patrolled than the lower bay and the Eastern Shore. In 1679 officials of the Customs House in England advised against approving a proposal to allow North Carolina to export its tobacco duty free, one reason being that Virginia planters, it was feared, would exploit the situation by sending their produce south, representing it "as Tobacco of the growth of Carolina," a fraud which, officials concluded, "would be Impossible to prevent."²⁴ Although the proposal was never adopted, some Virginia planters evidently used the North Carolina route to ship their tobacco duty free anyway.²⁵ In 1695 Edward Randolph suggested that North Carolina be annexed to Virginia specifically to "prevent the Shipping of the Merchantable Tobacco growing in the Southern part of y^t Territory by the Inlets of Corrituck and Roanoak."²⁶ Eight years later Robert Quay, Randolph's successor as surveyor general, described the isolated inlet at "Curatucke" as a "small hole where much mischief is yearly done."²⁷

²⁴ Ibid., I, 243.

²⁵ Ibid., III, xvi; NCHCM, 1724-1730, xxv; Randolph, Letters, V, 156, 231.

²⁶ Randolph, Letters, VII, 476.

²⁷ CSPC, XXI, #1150 ii, p. 739.

A similar type of illicit traffic also developed in the northern Chesapeake. In 1692 Edward Randolph reported the complaints of shipmasters that their trade was being destroyed by individuals who were transporting tobacco overland from Maryland's Eastern Shore to Delaware to avoid duty payments.²⁸ According to Randolph, however, the real culprit as far as the illegal overland trade was concerned was not Delaware per se, but Pennsylvania.²⁹ William Penn angrily rejected the charge, arguing that "If Tobacco be carried from Maryland to our side in fraud to the King, Edw. Randall [sic] ought to answer for that . . . The crime lies on the side of Maryland, where he chiefly resides; and there it is such practices should be stopped." Penn went on to list a number of cogent reasons why the alleged scam was impractical in any case, citing, among other drawbacks, the cost and difficulty of transporting heavy and bulky tobacco hogsheads up to ten miles overland.³⁰

In the same year that Penn refuted Randolph's charges, however, Maryland governor Nicholson reported that several roads between his colony and Penn's were perfectly adequate for conveying "Boats and Shalops of 10 or 12 Tuns upon Sleys, or in great Carts" as part of an extensive smuggling

²⁸ Randolph, Letters, VII, 361.

²⁹ Ibid., V, 117-24.

³⁰ Ibid., VII, 508-09.

operation.³¹ A proclamation issued by the governor in 1695 testifies to his conviction that such illegal activities actually were being pursued and were having a substantial adverse effect on the colony's economy: "it is . . . apparent that the Trade of this Province is much impaired and Damnified by Sloops Shallops and Boats . . . of Pensilvania . . . which . . . , transporting their loading over land . . . are frequently known to transport in Carts . . . large Sloopes, Shallops, and Boats wthout making any report or Entrey therof."³²

Naturally, the magnitude of illicit trade conducted without officially entering or clearing is impossible to calculate, but references to ship seizures and, less frequently, condemnations for failure to produce the requisite documents suggest that attempts to circumvent the customs system entirely occurred fairly regularly throughout the 1650-1750 period and, under the right circumstances, could occasionally be detected.³³ A variation on the practice, loading an additional cargo of enumerated goods after clearing legally, appears to have lessened the risk of discovery considerably. By employing this tactic, a ship

³¹ Md. A., XXIII, 87; Morriss, Colonial Trade of Maryland, 128.

³² Md. A., XX, 279-80; Morriss, Colonial Trade of Maryland, 128-29 n. 216.

³³ Md. A., XXIII, 88; N.C. St. Arch., CCR 142, doc. nos. 8, 23, 25, 27; CCR 191, 1/27/1729, 1/28/1735, 9/23/1735, 11/3/1736, 7/7/1741, 11/19/1743, and 10/24/1750.

captain could produce official papers, if so required, to indicate that he had indeed followed what would have appeared to be the prescribed procedures for entering and clearing. Unless the searcher, usually a royal guardship officer, was willing to make a thorough inspection of the vessel and its contents, chances were that the ruse would never be exposed as the rarity of such discoveries in the documentary record would seem to indicate.

Although the infrequency with which such infractions were prosecuted might be construed to mean that the offenses simply did not occur often enough to constitute a serious concern, royal and colonial officials clearly believed otherwise. In 1695 the governor of Maryland felt compelled to issue a proclamation requiring each shipmaster to swear (as if it would do any good) "that he neither will nor does design by himself or any other procurement^t to take in any more tobacco . . . after Clearing other than what he has given an Acco^t off upon Oath."³⁴ Fifteen years later Governor Spotswood tried to ascertain how illicit trade was being conducted between Virginia and the islands of Curaçao and St. Thomas by comparing the figures for cargoes cleared from points of embarkation with the records of cargoes entered at the legal destinations of various vessels. Finding no discrepancy between the two sets of numbers, the governor eventually discovered that it had become common

³⁴ Md. A., XX, 278.

practice for ships leaving Virginia to "take in great quantitys of tobacco after they had cleared with the Officer, and by this means . . . easeing all that Tobacco at either of those forreigne ports before they went to the plantation to which they were cleared."³⁵

The following year Spotswood wrote to the Commissioners of the Customs requesting additional resources in the battle against smuggling since, he had determined, it was "so easy for any Master of a Vessell to take in tobacco after he has cleared, without giving the Collector any acco't of it."³⁶ Whatever remedial measures British authorities may have implemented in response, however, achieved no more than limited or temporary success. Over a quarter century later, former North Carolina governor Burrington wrote the Commissioners that there still was "no knowing what Quantities of Tobacco are carried because the Masters ship it after they have cleared with the Collectors."³⁷

The strategy of taking on an additional cargo after clearing was normally predicated on the assumption that the unregistered goods would be disposed of, often in a proscribed foreign port, before reaching the vessel's final, approved destination either in England or another British colony. In some instances, however, illicit traders

³⁵ Spotswood, Letters, I, 10.

³⁶ Ibid., 76.

³⁷ CRNC, IV, 171.

apparently succeeded in obviating the necessity for taking even this basic precaution. As governor of Maryland in 1697, Francis Nicholson alleged that colonial smugglers had managed to secure the cooperation of customs agents in England, some of whom were thought to "suffer the Masters and merchants to enter with them more tobacco than they have cleared from here . . . so that if they have a chance to run it, either before or after the officer's visit, they gain their object."³⁸

Periods of armed conflict between England and her European rivals in America presented new challenges and opportunities to the illicit traders of the greater Chesapeake. In time of war, trade normally prohibited with foreign colonies acquired the additional stigma of a treasonable offense. But during such hostilities the Chesapeake colonists seem to have been motivated less by a sense of patriotic duty than one of economic potential. The greater risks associated with maritime commerce during international conflict meant greater profits, prompting smugglers to develop special techniques to turn the situation to their own advantage.

One form of deception, described by Virginia governor Edward Nott in 1705 as "Collusive, fraudulent, & Clandestine Captures by privateers," exploited the wartime environment to import cargoes of foreign goods which normally would be

³⁸ CSPC, XV, #1178, p. 548.

prohibited.³⁹ This ruse involved the staged "capture" of a cooperating enemy merchant ship in order to have the vessel condemned as a prize so that its cargo could then be sold legally.⁴⁰ But in view of the very limited involvement of Chesapeake-owned and manned privateers in the wars between European powers before 1750, it seems unlikely that this particular practice was used to circumvent the Navigation Acts and wartime trade regulations to any significant degree.⁴¹

A scam which may have been perpetrated more often by the owners and operators of Chesapeake vessels and their foreign counterparts was to enter an enemy harbor with a prohibited cargo under a "flag of truce" on the pretext of exchanging prisoners of war. Although Chesapeake colonists certainly had engaged in illicit trade with foreign enemies during the seventeenth century, English officials do not appear to have issued any specific directives against the practice until the later years of Queen Anne's War. When the home government did become exercised about Chesapeake residents' commercial involvement with wartime adversaries, it was specifically in connection with the flag of truce issue. Instructions to the governors of Virginia, Maryland, and other colonies in May 1710 warned colonial officials not

³⁹ CO5/1315, p. 35 (viii); EJC, III, 558.

⁴⁰ Middleton, Tobacco Coast, 432 n. 62.

⁴¹ Ibid., 371.

to permit flag of truce vessels to load any more provisions than those absolutely necessary for the voyage and insisted that the governors "not under any pretence whatsoever offer or allow of any such traiterous and illegal practices as have been heretofore used of sending to our . . . enemys supplys of provisions . . . whereby they have been assisted, comforted and relieved."⁴²

The British crown's concern over the more general problem of its subjects aiding the enemy was spurred by testimony earlier that year in which deponents specifically identified Carolina as a participant in forbidden commerce with the Dutch island of Curaçao and the Danish island of St. Thomas, "by which means the French Islands and their privateers are furnished with goods and provisions."⁴³ The informants further asserted that there was "hardly any Plantation in America that belongs to H.M. but has a correspondence with Curacoa."⁴⁴ Although the other Chesapeake colonies were not mentioned by name in that memorial, a subsequent deposition by mariner Samuel Brise provided an eyewitness account of ships having arrived at

⁴² CSPC, XXV, #213, p. 85.

⁴³ Ibid., #47, pp. 13-17, 51. Governor Nott's 1705 proclamation against fraudulent seizures by privateers also expressly forbade any correspondence with the French, especially "Supplying them with warlike or other stores." Those found guilty were to be "adjudged . . . traitors & Suffer ye pains of Death" (C05/1315, p. 35 [viii]).

⁴⁴ CSPC, XXV, #47, p. 15.

Curaçao from Virginia laden with tobacco over a period of several years during the war.⁴⁵ Two decades later, royal authorities still felt obliged to remind North Carolina governor Burrington that "in the late Wars the Merchants and Planters in America did correspond & trade with our enemies" and instructed him to employ "all possible methods to . . . hinder all such trade . . . in time of war."⁴⁶

While trading with the enemy drew significant attention in its own right, the phenomenon actually represented little more than an extension of the illicit commerce that Chesapeake colonists had been conducting routinely with foreigners, frequently with the assistance of New England mariners. Not long after the establishment of the Plantation Duty in 1673, Virginia merchants were complaining about northern traders carrying "much tobacco" from the Chesapeake to New England and from there to foreign countries, but the prominent role played by New Englanders in the illicit trade of the greater Chesapeake is most dramatically illustrated by the events surrounding Culpeper's Rebellion in North Carolina.⁴⁷

Long before the eruption of hostilities in 1677, New Englanders had dominated the export trade of the Albermarle

⁴⁵ JCTP, II, 114-15.

⁴⁶ CRNC, III, 116.

⁴⁷ CSPC, VII, #1059, p. 475.

region's principal cash crop, tobacco.⁴⁸ So great was the influence of the northern traders that the North Carolinians, under the threat of having the price of their provisions doubled, persuaded their governor to remit three quarters of the Plantation Duty that the New England mariners were required to pay to ship enumerated commodities out of the colony.⁴⁹ The Culpeper insurrection itself was precipitated by another attempt to enforce the Navigation Acts against New England commercial interests, specifically the arrest of trader Zachariah Gilliam by provisional governor Thomas Miller for the former's refusal to pay duties allegedly owed from tobacco exported the previous year.⁵⁰

In the aftermath of the conflict, reports solicited by English authorities from colonial officials further elucidated the part played by the New England men in the disturbance. Albermarle's new collector informed the Commissioners of the Customs that about a half dozen traders from New England customarily transported most of the tobacco produced in Albermarle County and that they were the ones largely responsible for setting up John Culpeper as collector, "by which means they & he have played such

⁴⁸ Lefler and Powell, Colonial North Carolina, 42; NCHCR, 1670-1696, xxxii.

⁴⁹ CRNC, I, 292, 309; NCHCR, 1670-1696, xliii.

⁵⁰ NCHCR, 1670-1696, 1-1i; Lefler and Powell, Colonial North Carolina, 44.

notorious pranks with the specious pretences of doing justice and preserving the King's rights that a people and Customes Treasure were never more infatuated, cheated and exhausted."⁵¹

In their account of the insurrection, the Carolina proprietors acknowledged Thomas Miller's excesses and abuse of power, but also concluded that the Culpeper faction and the New England men "had a designe . . . to gitt y^e trade of this part of y^e Country into their hands . . . And . . . defraud the King of all his Customes."⁵² Perhaps the most telling manifestation of the prominence of the northern traders in the illicit commercial affairs of North Carolina is evident in Miller's fate at the hands of the rebels. Not only did the New England men help arrest the provisional governor during the uprising for having seized hundreds of hogsheads of tobacco which they were exporting illegally, but at Miller's subsequent trial on what were probably spurious charges of making seditious declarations against the king and the Duke of York, the shipmasters even managed to install "a New England traid^r . . . much indebted to his Maj^{ty} for Customes" as jury foreman.⁵³

Despite their flagrantly provocative influence and behavior both preceding and during the rebellion, the New

⁵¹ CRNC, I, 245.

⁵² Ibid., 288.

⁵³ Ibid., 297.

Englanders suffered no recriminations in the aftermath nor, despite the claim that customs duties subsequently were collected "without any disturbance from the people," did their level of participation in the contraband trade of the region appear to diminish appreciably in the long run.⁵⁴ Edward Randolph and the colonial governors continued to complain about their activities not only in North Carolina but throughout the greater Chesapeake for the rest of the seventeenth century.⁵⁵

A reduction in the number of protests about New England involvement in the contraband trade of the region during the early years of the eighteenth century suggests that the administrative reforms of the 1690s may have succeeded in curtailing the northern traders' participation in the illicit commerce of the bay area for a brief period. Even so, Randolph's successor, Robert Quary, expressed "much fear" in 1703 that most of the tobacco grown in North Carolina was being "carryed to a wrong market . . . by New Engld. men" who continued to conduct the greatest part of that colony's trade.⁵⁶ And during an investigation of customs abuses in Connecticut five years later, the royal

⁵⁴ Lefler and Powell, Colonial North Carolina, 46.

⁵⁵ Randolph, Letters, V, 118, 119, 135, 142-43, 216-17, 231, 270-71; VII, 367; Morriss, Colonial Trade of Maryland, 117; CSPC, XIII, #2295, pp. 657, 659; XIV, #1897, pp. 511-12.

⁵⁶ CSPC, XXI, #1150 ii, p. 738.

agent discovered that "severall vessells that made a Trade of running Tobacco from the Out Parts of Virginia without entry or clearing came directly to this Government, and landed their Tobacco" in New London. There it was illegally processed by the local collector whom Quarry denigrated as a "Pillar of their Church but a great rogue."⁵⁷

By 1710 Virginia officials indicated that New England vessels again were foremost among those guilty of abusing the customs system by "exporting greater quantities of tobacco than they pay duty for . . . to the great prejudice of her Majesty and a discouragement of all fair Traders."⁵⁸ Over a decade later, the masters of the College of William and Mary identified evasion of the penny per pound duty on tobacco exports by New England shippers as another reason for their greatly depleted revenues. Not only did the northerners habitually break the law, but they apparently did so with a degree of impunity. "The New-England men are so bold in their transgressions of the acts of trade," wrote the college directors, "that no ordinary officer on the Eastern shore cares to meddle with them."⁵⁹ In 1736, nearly six decades after Culpeper's

⁵⁷ Documents Relative to the Colonial History of the State of New York, Berthold Fernow and others, eds., (Albany 1877), V, 30. Cited hereafter as N.Y. St. Docs.

⁵⁸ EJC, III, 253; Spotswood, Letters, I, 10, 114.

⁵⁹ Perry, Church Papers, 549.

Rebellion, George Burrington reported that New England traders were exporting "great quantities" of North Carolina tobacco annually without paying any duties.⁶⁰

Besides the New Englanders, the Chesapeake colonists' most consistent partners in the crime of illicit trade were the Scots and the Dutch. Although the Scots were anxious to participate in the legal commerce of the English empire, the Navigation Act of 1660 effectively prevented them from doing so. The legislation classified Scots as aliens which meant that they were not permitted to trade with the colonies; their sailors could not be considered English for the purpose of fulfilling the requirement that the crew be three-quarters English; and their ships could not be used to convey goods to and from America.⁶¹ Typical of the Scottish reaction to the enforcement of the acts was a situation in Barbados in 1670 in which a vessel was seized and condemned for not having the requisite percentage of English sailors despite the presence of an ample number of Scotsmen, men who had "hazarded their lives in the last wars against the Dutch" and considered it "wondrous unkind to be thus debarred the liberty of subjects."⁶²

⁶⁰ CRNC, IV, 170.

⁶¹ Andrews, Colonial Period of American History, IV, 124; Harper, English Navigation Laws, 65, 284-86, 387 n. 1, 389.

⁶² CSPC, VII, #163, p. 60.

In defiance of the prohibitions, the Scots resolved to participate in the colonial trade nevertheless and became especially active in the illicit commerce of the Chesapeake.⁶³ So effective were they in establishing themselves in the trade that by 1689 English merchants were protesting that their livelihood was being destroyed by Scottish vessels sailing directly to Maryland, Virginia, and Pennsylvania.⁶⁴ The following year English authorities received a report that two ships from the Chesapeake had unloaded tobacco in Glasgow without having cleared first in England.⁶⁵ Two years later Edward Randolph informed his superiors about the certificate counterfeiting operation in Glasgow and reported the arrival in Maryland of several trading vessels which had sailed directly from Scotland.⁶⁶

A significant aspect of the problem, according to Randolph, was the considerable support that the Scottish traders enjoyed among the local population. The surveyor general despaired of remedying the contraband commerce

⁶³ One way in which the Scottish smugglers reportedly secured a commercial foothold in the Chesapeake was by consolidating ties with relatives who had been transported to Virginia and Maryland by Oliver Cromwell after the battles of Dunbar and Worcester following the English Civil War (Williams, Contraband Cargoes, 91).

⁶⁴ Stock, Debates II, 195; Andrews, Colonial Period of American History, IV, 151.

⁶⁵ Morriss, Colonial Trade of Maryland, 119 n. 160.

⁶⁶ Randolph, Letters, VII, 371; CSPC, XIII, #2295, pp. 657-59.

situation so long as one collector remained "a great partisan of the Scotchmen in their cases" and a council member and another customs agent continued to be "great supporters of the Scotch trade."⁶⁷ Randolph found Somerset County to be a particularly troublesome area, "a place pestered by hundreds of Scotch and Irish families . . . who support the interlopers, buy their cargoes and govern the whole trade of the Eastern shore."⁶⁸

In 1694 Randolph submitted a list of traders who, he charged, had cleared illegally from customs districts in Virginia and Maryland. Of the thirteen ships indicated, nine were listed as bound for Scotland and Scotsmen were identified as the principal merchants in all but two instances.⁶⁹ English authorities received additional reports of Scottish involvement in the illicit trade of the Chesapeake from various quarters that year. Patuxent River district collector George Plater informed the Privy Council that several vessels had embarked from Maryland with cargoes bound directly for Scotland.⁷⁰ In England, the London Customs House calculated a loss of L50,000 throughout the empire as a result of illicit trade that year, drawing

⁶⁷ CSPC, XIII, #2295, p. 658.

⁶⁸ Ibid., p. 659.

⁶⁹ Randolph, Letters, VII, 472-73.

⁷⁰ Md. A., XX, 65; Morriss, Colonial Trade of Maryland, 119 n. 160.

special attention to the adverse consequences to the royal revenue of colonial tobacco ships unloading at Glasgow.⁷¹ Also in 1694, English merchants repeated their five-year-old complaint about Scottish interlopers devastating their trade. Beseeching royal authorities to provide "some remedy . . . against this groaning evil," they recommended that the home government provide a small ship to cruise the Chesapeake Bay against illicit traders.⁷² This time English authorities considered the matter serious enough to order the Maryland and Virginia governors to hire vessels to patrol the bay in search of ships arriving directly from Scotland.⁷³

In late 1695 English officials became further alarmed by the Scottish parliament's passage of an act establishing a joint stock company to trade with Africa and the East Indies. Edward Randolph contemptuously derided the initiative as a mere "pretence" by which the Scots hoped to "engage themselves with great sums of money in an American trade."⁷⁴ In England the Commissioners of the Customs

⁷¹ Stock, Debates, II 104, 106, 107-08, 110-12; Hall, Edward Randolph, 156.

⁷² CTP, I, 354; Md. A., XX, 262, 340-41, XXIII, 87; Stock, Debates, II, 111; CSPC, XIV, #1005 I, p. 279.

⁷³ CSPC, XIV, #1139 I and II, p. 308; #1494, p. 396; #1510, p. 399; Md. A., XX, 263; XXIII, 551; APCC, II, #558, pp. 272-73; Andrews, Colonial Period of American History, IV, 153.

⁷⁴ CSPC, XIV, #2187, p. 625.

also confessed to being "apprehensive that this traffic may be increased under colour" of the recent legislation and begged the King in Council to take additional remedial action.⁷⁵ Focusing directly on the Chesapeake, the commissioners instructed Collector Plater to keep an "Especiall Eye and Reguard to such ships and Vessels as may be in any wayes suspected to Come from Scotl. or be bound thither" and communicated to Governor Nicholson their deepest fear that "a Vigorous Carrying on the Trade to and from those parts" might ultimately do no less than "destroy the Trade and Navigation of England and Carry it to Scotland."⁷⁶

The crown's anxiety over mounting reports of illicit trade in the Chesapeake and other parts of colonial America (in which the activities of Scottish interlopers figured prominently), provided the impetus to draft and secure passage of the 1696 Act for Preventing Frauds and Regulating Abuses in the Plantation Trade. The home government's preoccupation with the perceived Scottish threat at this time was reflected in the circular sent to all plantation governors only days after the act's passage, inquiring as to

⁷⁵ Ibid., #2237, pp. 638-39.

⁷⁶ Md. A., XX, 345.

whether any "Scotchmen" were employed in places of trust in the colonial governments.⁷⁷

Enactment of the legislation appears to have had little immediate impact, however, on the volume of contraband trade conducted by Scotsmen in the bay region. In 1698 a customs officer and member of the Council of Virginia offered the Board of Trade a subtle reminder about the persistence of illegal commerce between Scotland and the Chesapeake. "I need not acquaint you with the sweetness of that trade," he wrote, "nor what a prodigious revenue the King may lose if it be not well looked into."⁷⁸ In addition to accounts over the next few years of Scottish ships arriving in the Chesapeake with cargoes of European goods and departing with shipments of tobacco, the Commissioners of the Customs advised colonial officials about the reported construction in Maryland and Virginia of ships intended for the Scottish trade.⁷⁹ Such a building program would have represented a rather remarkable development in view of Maryland governor John Hart's declaration, as late as 1720, that his colony's inhabitants owned very few ships and "are not inclin'd to

⁷⁷ Ibid., 569; Andrews, Colonial Period of American History, IV, 175.

⁷⁸ CSPC, XVI, #655, p. 330.

⁷⁹ Md. A., XX, 340-41; XXIII, 11, 12, 328, 329; XXV, 73; Morriss, Colonial Trade of Maryland, 119 n. 160.

navigation, but depend on British bottoms, for . . . the bulk of their trade."⁸⁰

One way to end Scottish smuggling was to make it legal. Under the Act of Union in 1707 Scotland was formally admitted to the British empire. By virtue of the Scots' new status as British citizens, many of the illicit trade activities in which they had engaged previously were no longer considered criminal and, as a result, the number of recorded trade act violations by "Scotchmen" dropped precipitously in succeeding years. Since the Scots were now officially British subjects, it is also reasonable to suppose that, even when they were implicated in contraband trade, they were no longer certain to be identified by nationality, thus contributing to further anonymity in the subsequent annals of illicit trade in the greater Chesapeake. Nevertheless, a Parliamentary committee investigating the smuggling of tobacco from Virginia and Maryland in 1723 concluded that "great and notorious frauds have been committed, upon the importation of tobacco into that part of Great Britain called Scotland, by not duly

⁸⁰ CSPC, XXXII, #214 iv, p. 129. A quarter century earlier Maryland Governor Nicholson had remarked that ship handling and navigation were "so contrary to the genius of the people" that he could find no local replacement for the drowned commander of the sloop assigned to patrol the colony's waters against smuggling (Ibid., XIV, #2303, p. 654).

paying the customs thereon."⁸¹ Moreover, historians have remarked on the strong Scottish presence in Norfolk in the eighteenth century and have speculated on the likely connection between that demographic fact and the Virginia port city's participation in illegal trade with foreign colonies in the West Indies, specifically in violation of the Molasses Act.⁸²

While diminution of the royal revenue caused by Scottish breaches of the trade laws may have been mitigated considerably by incorporating the transgressors into the British commercial system, no such simple solution could be found for the problem of Dutch interlopers whose involvement in the illicit trade of England dated back to the Middle Ages.⁸³ In the colonial era, the inability of English merchants to compete successfully against Dutch commercial interests eventually induced Parliament to legislate the first of the restrictive Navigation Acts in 1651.⁸⁴ The phenomenon of Dutch collaboration in the illicit trade of the Chesapeake, however, was based on a tradition of

⁸¹ Stock, Debates, III, 464. Robert C. Nash has determined that between 1707 and 1722 Glasgow merchants probably evaded duty payments on a third to a half of their tobacco imports ("Tobacco Trades," 370).

⁸² Thomas Wertenbaker, Norfolk, Historic Southern Port (Durham, N.C., 1931), 44, 49; Middleton, Tobacco Coast, 209.

⁸³ Williams, Contraband Cargoes, 21.

⁸⁴ C. R. Boxer, The Dutch Seaborne Empire: 1600-1800 (New York, 1965), 91; Andrews, Colonial Period of American History, IV, chapter 2.

amicable and mutually profitable relations which predated the trade laws by several decades.

Despite the understanding reached between English authorities and officials of Virginia Company in the 1620s, colonial planters, including Governor George Yeardley, customarily shipped their tobacco directly to Holland aboard both Dutch and English ships.⁸⁵ By an act of assembly in 1642/3 Virginia legislators went so far as to codify the encouragement of Dutch trade with their colony.⁸⁶ The attempt by envoys from New Netherland in 1653 to negotiate a commercial treaty with Virginia empowering Dutch merchants to collect debts owed them by residents of the English settlement further testifies to the prior existence of extensive trade relations between the two New World colonies.⁸⁷ In the same year, Eastern Shore planters notified their business associates in Manhattan that they would maintain the supply of tobacco, in direct defiance of the 1651 Navigation Act, if the Dutchmen would send ships to Smith's Island to make the exchange.⁸⁸

⁸⁵ Andrews, Colonial Period of American History, IV, 17; Wise, Kingdome of Accawmacke, 294-95.

⁸⁶ Hening, Statutes, I, 258.

⁸⁷ E. B. O'Callaghan, History of New Netherland; or New York Under the Dutch, (New York, 1848), II, 235-36; John R. Brodhead, History of the State of New York, 2 vols. (New York, 1874), I, 562.

⁸⁸ Wise, Kingdome of Accawmacke, 147.

Except for a brief hiatus during the First Dutch War (1652-54), Virginians continued to pursue commercial relations with the Dutch throughout the Protectorate period.⁸⁹ When the English monarchy was restored, New Netherland dispatched ambassadors to Virginia once again "to renew our former and ancient friendship, correspondence, and neighborhood" and to negotiate a treaty, which was successfully concluded, establishing "free trade and commerce" between the two colonies.⁹⁰ Despite the English prohibitions, Dutch merchants appear to have participated fully in the economic life of the Chesapeake colony even to the extent of joining, on at least one occasion, with English and Anglo-American shipmasters in openly defying local customs authorities. When, in 1658, two Virginia collectors submitted a list of ship captains who had refused to pay the two shilling per hogshead duty on tobacco, the roster included the commander of the ship Dolphin, a merchant vessel with a registered home port of Amsterdam.⁹¹

⁸⁹ N.Y. St. Docs., XII, 95 n. 8; Brodhead, History of New York, 682; Ames, Virginia Eastern Shore, 45-46, 48-49, 95; Beer, Old Colonial System, I, 237.

⁹⁰ Brodhead, History of New York, I, 683; Frances G. Davenport, ed., European Treaties Bearing on the History of the United States and its Dependencies (Washington, D.C., 1917-1937), II, 55-56.

⁹¹ Hening, Statutes, I, 513.

The intimacy of the relationship between the Virginians and the Dutch traders exceeded that of simple trading partners, at least as far as the Chesapeake planters were concerned. Governor Berkeley, himself a planter, cast the foreigners in the role of economic saviors when, in objecting to the Navigation Act of 1651, he complained about "the Londoners who would faine bring us to the same poverty, wherein the Dutch found and relieved us."⁹² Almost twenty years later, the Virginians' seemingly greater affinity for the Hollanders than the government of their mother country took a more ominous turn from the crown's perspective. Sir John Knight reported that the "desire of the planters for a trade with the Dutch . . . and not to be singly bound to England" had motivated them to permit the enemy to land during an invasion the previous year. So grave was Knight's concern about the loyalty of the local population that he advocated building forts near Virginia's harbors and coasts partly to prevent the planters "from revolting to the Dutch, as," he warned, "it is much to be feared they will."⁹³

Although the much feared rebellion never occurred, residents of the greater Chesapeake continued to conduct

⁹² VMHB, I, 77; VIII, 147; Ames, Virginia Eastern Shore, 46; Andrews, Colonial Period of American History, IV, 28.

⁹³ CSPC, VII, #1159, p. 530.

illicit trade with the Dutch.⁹⁴ A casual Dutch reference to the acquisition of a full load of tobacco from Virginia "in the name of an English skipper" indicates one method by which the Dutchmen circumvented English customs regulations and suggests that the ruse was employed rather commonly.⁹⁵ English officials clearly expressed their conviction concerning the prevalence and volume of this particular form of contraband trade when they asserted, in the royal instructions to Governor Berkeley in 1662, that "very much Tobacco" was being shipped out of Virginia aboard "Dutch Vessels wherein English mariners are entertained for that purpose."⁹⁶ Virginians did not rely solely on Dutch bottoms to conduct the trade, however. In 1684 treasury officials gave instructions to the English consul in Rotterdam to seek the cooperation of local officials in seizing any remaining tobacco ships from Virginia, six of which were reported to have arrived during the previous four weeks, and sending the vessels to England.⁹⁷ For the rest

⁹⁴ N.Y. St. Docs., III, 47; V, 30; Wise, Kingdome of Accawmacke, 238, 296-98.

⁹⁵ N.Y. St. Docs., II, 253.

⁹⁶ VMHB, III, 18.

⁹⁷ CTB, VIII, pt. 2, p. 1119; Andrews, Colonial Period of American History, IV, 118. Almost two centuries later, English officials once again identified Rotterdam as a principal center for smuggling tobacco into England. Following up on reports of large-scale contraband shipments from the Dutch city in 1881, London customs officers confiscated a sizable cache of the weed that had been packed by hydraulic pressure into two massive, mock marine boilers

of the century English authorities continued to receive reports of direct and indirect trade between the Chesapeake, Holland, and the Dutch colonies in America and the West Indies.⁹⁸

By the eighteenth century the Dutch West Indian island of Curaçao had begun to emerge as the primary shipping, receiving, and distribution center for the Dutch contraband trade with the Chesapeake. In a 1695 letter to the Council of Maryland the Commissioners of the Customs expressed displeasure regarding the reported delivery of 60 hogsheads of tobacco to "Carasoa" by a ship owned and operated by residents of the Patuxent River customs district.⁹⁹ Had the incident been isolated, it might not have elicited serious concern, but within several months English

constructed especially for the purpose (Harper, The Smugglers, 230-31).

⁹⁸ Randolph, Letters, VII, 351; V, 135, 216-17. One report which probably did not come to the attention of English authorities until considerably after the fact offers a further indication of the regularity of contraband trade between the Dutch and the greater Chesapeake. The pirate journal of Ambrose Cowley contains a 1683 entry concerning the capture of "a Holland shipp bound for Virginia with negroes" off the west coast of Africa. Recognizing the vessel as "an Interloper," the freebooters explained to the Dutch captain that "they might as well Rob him as He the King, he being bound to Rob the King of his Dutyes" (William Dampier, Dampier's Voyages: Consisting of A New Voyage Round the World, a Supplement to the Voyage Round the World, Two Voyages to Campeachy, a Discourse of Winds, a Voyage to New Holland . . ., John Masefield, ed. [London, 1906], I, 532; Lionel Wafer, A New Voyage & Description of the Isthmus of America, L. E. Elliott Joyce, ed., [Oxford, 1934], xxx).

⁹⁹ Md. A., XX, 366-67.

authorities were convinced that the "abuse of Conveying Tob^o Sugars and Indico from his Ma^{ts} Plantations to this Dutch ffactory" already had become established as "a generall practice" and that the officials of the Caribbean island, far from deterring such proscribed commerce, instead gave "countenance and Encouragem^t thereunto."¹⁰⁰ The same year Edward Randolph reported that many English sailors deserted Royal Navy ships in the Chesapeake in order to join the crews of vessels trading illegally to "Carasaw."¹⁰¹

In 1700 Robert Quarry, judge of Pennsylvania's vice-admiralty court and soon to succeed Randolph as surveyor general, undertook to expose and put a stop to illicit trade with Curaçao. But in seeking the colonists' cooperation Quarry was dismayed to find "all persons so very cold and unwilling to concern themselves" that he felt constrained to pursue the matter entirely by himself or, he was convinced, "nothing will be effected."¹⁰² A special agent dispatched to the colonies to assess the status of piracy and illicit trade in America reported in 1701 that the inhabitants of the proprietary colonies drove "a constant trade to Surinam and Curacoa . . . from whence they bring back linnen and other European

¹⁰⁰ Ibid., 523.

¹⁰¹ Randolph, Letters, V, 126.

¹⁰² CSPC, XVIII, #932 i, p. 653.

commodities."¹⁰³ Two years later, Quarry, now surveyor general, identified "Curesawe and other places in ye West Indies" as the destinations of tobacco exported illegally from North Carolina aboard New England vessels.¹⁰⁴

Apart from Quarry, however, it appears that few royal or colonial officials became sufficiently agitated about the problem to take any concerted action until the beginning of the next decade once new information about the trade had been made available. In 1709 John Lawson wrote about the thriving commerce between North Carolina and Curaçao and the ships that the Carolinians had built to conduct that lucrative trade.¹⁰⁵ The Curaçao-Chesapeake connection was revealed to officials of the home government in greater detail early the following year through the memorials of Peter Holt, Samuel Brise, and others.¹⁰⁶ In addition to Brise's testimony about the presence of Virginia vessels in Curaçao, the Council of Trade also learned that Carolina had been supplying the island with pitch, tar, and even ships.¹⁰⁷

The Commissioners for Trade and Plantations enjoined the governors of all the colonies which had been implicated

¹⁰³ Ibid., XIX, #1054, p. 659.

¹⁰⁴ Ibid., XXI, #1150 ii, p. 738.

¹⁰⁵ Lawson, Voyage to Carolina, 10.

¹⁰⁶ CSPC, XXV, #47 I, pp. 14-17; JCTP, II, 114-15.

¹⁰⁷ CSPC, XXV, #138, p. 51.

in the memorials "to make strict enquiry into the truth" of the allegations.¹⁰⁸ Later that year, in an unsuccessful attempt to discover the Anglo-American participants in the illegal traffic between the lower James River and the Dutch island, Governor Spotswood found information as difficult to obtain as Colonel Quarry had a decade earlier. Despite the governor's admission that his investigations had "not given . . . the light . . . expected," the Council of Trade and Plantations commended him for his "diligence in endeavouring to detect illegal trade with Curacoa" and urged continued vigilance to "discourage such illegal practises upon all occasions."¹⁰⁹ There is no evidence, however, to suggest that the perpetrators of the trade were ever apprehended.

At the same time, though, the number of specific references to contraband trade with Curaçao appearing in the contemporary documents diminishes considerably in succeeding years. The relative absence of complaints may not reflect the virtual elimination, or even reduction, of the trade, however. In response to a royal government query regarding the extent of illicit trade in Virginia in 1730, Governor William Gooch reported that such traffic no longer existed, with the single exception of that which still was being

¹⁰⁸ JCTP, II, 111.

¹⁰⁹ Spotswood, Letters, I, 18, 87; CSPC, XXV, #437, p. 233; #449, p. 242.

conducted with the Dutch colonies of Surinam and "Curassoa."¹¹⁰ Several years later Gooch reported that even this trade had ceased, but it is worth noting that the contraband cargo of foreign goods mentioned by North Carolina governor Burrington as having been destined for Virginia merchants arrived about the same time, in 1734, thus casting doubt on Gooch's overall assessment.¹¹¹

In the 1730s and '40s prohibited goods continued to enter the colonies of the greater Chesapeake, but the route by which they arrived is often unspecified in the official records and, in some instances, may have been unknown even to law enforcement authorities at the time. In 1741, for example, a vessel was condemned in North Carolina for having imported "forreign rum," Lisbon salt, gunpowder, and "sundry other . . . merchandises." The cargo was thought to have been loaded in Virginia, but since it arrived "without any Lawfull permitts, Cocketts, due Entrys or clearances . . . or any Certificate of bond" it was impossible to determine what the previous port or ports of embarkation had been.¹¹² In an unusual case several years earlier, a customs agent at Port Roanoke submitted a libel to the North

¹¹⁰ Flippin, William Gooch, 14.

¹¹¹ Ibid.; Wertenbaker, Norfolk, 44; "Gooch Correspondence," typescript mss. at The Colonial Williamsburg Research Center, vol. 1, Gooch to the Board of Trade, July 23, 1730.

¹¹² N.C. St. Arch., CCR 191, 7/7/1741.

Carolina vice-admiralty court concerning the seizure of various contraband goods "of Merchants unknown . . . in certain Ship . . . or Vessels . . . as yet unknown." The confiscated wares included Indian silks and muslin as well as French wine and playing cards.¹¹³

The nature of the contraband goods in both cases may offer a clue as to the source of the goods. In 1710 the Board of Trade listed "muslins, silks and . . . great quantities of . . . powder and shott" among the principal commodities that traders from the English plantations received from the merchants of Curaçao in exchange for tobacco, pitch, tar and other products of the American continent.¹¹⁴ Additionally, Curaçao served as one of the main exchange centers for residents of the Chesapeake and other Anglo-American colonies seeking to acquire goods (primarily sugar and molasses, but no doubt manufactured items like playing cards as well) from the French West Indies.¹¹⁵

As if British authorities did not have a hard enough time contending with New Englanders, Scots, and Dutchmen

¹¹³ Ibid., 2/2/1736.

¹¹⁴ CSPC, XXV, #138, p. 51.

¹¹⁵ Middleton, Tobacco Coast, 209, 211, 431 n. 46. The Dutch island's commercial ties to Britain's colonial rivals remained a source of concern for crown authorities for decades to come. In 1741 a Royal Navy admiral warned his superiors that French and Spanish men-of-war would rely on "Statia [St. Eustatius] and Curascoa" for their provisions in any ensuing hostilities (EJC, V, 46).

conspiring independently to violate trade laws and customs regulations with the inhabitants of the greater Chesapeake, additional evidence suggests that the three groups operated, to a certain degree, in concert as well. In 1696 Edward Randolph described a "Combination" of New Englanders and Scotsmen to carry on illegal trade between Maryland and Scotland and "other places prohibited."¹¹⁶ Randolph further delineated the connections between various illicit trading interests when he recommended that "fitt persons" be appointed as governors of Carolina and Pennsylvania to curtail the "illegal Trade carried on by Scotchmen & others in vessells belonging to New Eng^d & Pensilvania, from those provinces, to Scotland, Carasaw, & other unlawful places."¹¹⁷

Pennsylvania itself was frequently identified, most often by Marylanders, as a cause of, and conduit for, much of the illicit trade that plagued the northern Chesapeake. Francis Nicholson and Sir Thomas Lawrence each advised the Board of Trade in 1695 that the Pennsylvanians, besides trading directly with Scotland, Holland, and Curaçao, were sending contraband goods into Maryland and removing

¹¹⁶ Randolph, Letters, V, 142-43.

¹¹⁷ Ibid., 135. Robert Quarry subsequently noted the illicit connection between North Carolina tobacco growers, New England mariners, and Dutch buyers in Curaçao in his 1703 report to English customs officials (CSPC, XXI, #1150 ii, p. 738).

uncustomed tobacco in exchange.¹¹⁸ Both officials were equally concerned about their northern neighbors' deleterious influence, the colonial secretary fearing that "the people of Virginia and Maryland going there and observing the advantages that they reap by their . . . illegal way of trading, are encouraged to do the same in their own provinces."¹¹⁹ Robert Quarry agreed that such apprehensions were justified, claiming in 1698 that Pennsylvania's bad example had "already so far infected Maryland that but for the vigilance . . . of Governor Nicholson the consequence might have been fatal."¹²⁰

Although outside groups undoubtedly played indispensable roles in the contraband trade of the greater Chesapeake, their participation should not be permitted to obscure the centrality of resident populations in the illicit commerce of their region, a phenomenon that historians, for the most part, either have overlooked or denied. One reason why scholars generally have discounted illegal trade as a significant factor in the history of the greater Chesapeake may have been a tendency to correlate the amount of shipping actually owned and personally conducted by members of a given colony with the degree to which those individuals participated in illicit trade. But as was the

¹¹⁸ CSPC, XIV, #1897, p.510; #1916, p. 520.

¹¹⁹ Ibid., #1916, p. 520; Md. A., XXIII, 84.

¹²⁰ CSPC, XVI, #796, p. 415.

case with piracy, involvement in unlawful commerce was by no means restricted to those who owned, operated, and manned the ships.

Even when New England vessels transported much more contraband cargo to and from the greater Chesapeake than did local craft, smuggling and duty evasion required the active and equal collaboration of colonial agents in the false packing and marking of casks and hogsheads, arranging for and assisting in the clandestine loading and unloading of goods, and the bribing of customs officials. It is also apparent that, in the movement of contraband material through inland waterways and around the bay itself, small, locally owned vessels played a key role which frequently escaped the attention of contemporary authorities and which modern historians commonly have failed to take into account as well.

In his 1709 memorial to the Board of Trade, mariner Peter Holt stated that it was easy to abscond from the bay with a load of unregistered tobacco because authorities paid little attention to the small boats which regularly plied the waters of the Chesapeake.¹²¹ Describing the volume of cargoes seized from such vessels as petty, historian Margaret S. Morriss doubted that such small craft could have carried enough contraband to have had a significant adverse

¹²¹ Dodson, Alexander Spotswood, 62-63.

impact on either the royal or the colonial economy.¹²² Although the amount of goods confiscated as a result of any particular seizure might seem insignificant, Morriss failed to consider the cumulative effect that dozens of such vessels operating simultaneously could produce.¹²³

Colonial officials frequently referred to the vital role played by sloops, shallops, and other boats in the transportation system, both legal and illicit, of the greater Chesapeake. Officials of the Customs House in London reported in 1679 that, though the amount of tobacco grown in North Carolina was considerable, most of it was carried in "Sloopes and small fetches to Virginia & New England."¹²⁴ Commenting on the loss of royal revenue due to the evasion of tobacco duties, Edward Randolph informed his superiors in 1700 that the North Carolinians and southern Virginians who lived near Currituck Inlet habitually employed small vessels to run their tobacco to New England without paying any customs.¹²⁵ Two decades

¹²² Morriss, Colonial Trade of Maryland, 128-29 nn. 216, 217.

¹²³ Small craft were so indispensable to smuggling operations between England and continental Europe that crown officials specifically excluded them from the cross-Channel trade in the second half of the sixteenth century (Williams, Contraband Cargoes, 30). Also, Harper noted that by using such vessels in the colonies, contraband traders could minimize their financial losses if apprehended (English Navigation Laws, 256).

¹²⁴ CRNC, I, 243.

¹²⁵ Ibid., III, xvii; Randolph, Letters, V, 231.

later the Council of Trade and Plantations reaffirmed that the commerce of North Carolina was still "carry'd on by very small sloops."¹²⁶ Scottish interlopers, Randolph asserted, regularly smuggled "Considerable quantities of Goods which in a Peddling manner" which they disposed of by "running in small boats from River and Creek to another" throughout the greater Chesapeake.¹²⁷ And to the extent that contraband traffic existed between Maryland and Pennsylvania, it is clear that the "Sloops Shallops & Boates . . . which keep runing and Trading up and down . . . the severall Rivers and Creekes . . . of Maryland", some of which were alleged to have been transported overland in the movement of prohibited or enumerated goods, were integral to the illicit trade of that region.¹²⁸

In addition to attending personally to their local shipping needs, by the third decade of the eighteenth century Chesapeake residents had assumed a significantly greater role in their seagoing commerce "to such a Degree," Governor Spotswood reported, "as to carry in there own

¹²⁶ CSPC, XXXII, #656, p. 424.

¹²⁷ Randolph, Letters, V, 118.

¹²⁸ Md. A., XX, 279; Morriss, Colonial Trade of Maryland, 128-29 n. 216. Responding to Board of Trade queries concerning Virginia's commerce in 1730 and 1743, Governor Gooch also commented on the "small Shallops which are constantly employ'd in the Bay in transporting the Country Commodities from one River to another" ("Gooch Correspondence," vol. 1, Gooch to the Board of Trade, 7/23/1730; vol. 3, Gooch to the Board of Trade, 8/22/1743).

bottoms almost that whole Trade which used to be managed by the People of New England, Bermuda, and other Plantations."¹²⁹ A similar situation developed in North Carolina where, according to John Lawson, local shipbuilders had constructed "a considerable number of Vessels . . . with which they trade to Cuirassau, and the West Indies."¹³⁰

As significant as these developments were, the illegal activities of local shippers, sailors, packers, and planters represent -- to the extent that they are known -- only the most direct manifestations of a much more universal opposition to the imposition of trade restrictions and customs duties on the inhabitants of the greater Chesapeake. Illicit traders enjoyed a widespread support among the general public which was demonstrated time and again in the colonial courts and legislative assemblies and in popular, sometimes violent, resistance to the efforts of crown representatives to enforce the Navigation Acts. Compounding the degree of local complicity was the fact that most local customs agents were sympathetic colonists, many of whom were not only personally involved in the trade they were empowered to regulate, but who also actively engaged in bribery, extortion, and other questionable activities for personal profit in flagrant violation of the laws they had sworn to uphold.

¹²⁹ Spotswood, Letters, II, 154.

¹³⁰ Lawson, Voyage to Carolina, 10-11.

CHAPTER IV

"Their . . . loose, and vitious way of living;
and . . . their Darling, illegal trade":

Popular Opposition to Trade and Customs Regulations

In 1697 an exasperated Francis Nicholson wrote to the Board of Trade, "I have endeavoured (according to my duty) to hinder illegal trade, in doing of which, I have mett with great difficultyes, especially in the Courts and Assembly."¹ The reason for the persistent opposition by the people and their representatives, the Maryland governor believed, was that "the cursed thing called self-interest too much governs them."² More specifically, Nicholson charged in a subsequent letter to the Board, some colonists were "not satisfied wth his Majestys Government . . . because it curbs them in their former atheistical, loose, and vitious way of living; and debars them of their Darling, illegal trade."³ Almost two decades later Virginia governor Spotswood expressed similar sentiments when he reported that members of the House of Burgesses recently had

¹ Md. A., XXIII, 86.

² CSPC, XV, #1178, p. 546.

³ Md. A., XXIII, 491; CSPC, XVI, #760, p. 386.

accomplished nothing positive, but "on the contrary . . . spent much of their time contriving to repeal the Laws . . . made to restrain dishonest and fraudulent practices in the general dealings of the Country." Such was "their humour and principles," the governor added, "y't they would aim at no other Acts than what invaded ye Prerogative or thwarted the Government."⁴

Spotswood's difficulties with the burgesses encompassed a broader spectrum of issues, of course, than just those relating to maritime affairs. Disputes over Indian policy, defense expenditures, land distribution, tobacco inspection, quitrent collection, court and parish church appointments, and the dispensation of patronage all contributed significantly to the contentious atmosphere which characterized much of the governor's administration and eventually may have caused his dismissal.⁵ Clearly though, Spotswood found many Virginians' attitudes on matters of trade, navigation, and piracy to be entirely consistent with the obstinacy and selfishness that he believed they often exhibited in their other affairs. Regarding opposition to his proposal to outlaw the export of inferior tobacco, he cynically remarked, "a few Years' Observation has made me

⁴ Spotswood, Letters, I, 129-30; CSPC, XXVIII, #651, p. 315.

⁵ See, for example, Dodson, Alexander Spotswood, passim, and Billings, Selby, and Tate, Colonial Virginia, chapter 8.

perceive y't the Vulgar in these parts reckon him only the Honest Man who inclines to favour their Interest . . . who always carries Stilliards to weigh to the needy Planter's advantage, and who never judges his Tobacco to be Trash."⁶ Spotswood reacted similarly to the assembly's insistence on exemptions from certain duties for Virginia-owned ships, complaining that there was "no reasoning against Interest, the Exemption . . . is too beneficial a privilege to be parted with . . . while the humour of ye people is more intent upon private benefit than ye public Safety, or hon'r of the Governm't."⁷

Although the courts and assemblies constituted the focal points of colonial resistance to the implementation and enforcement of the Navigation Acts and related customs regulations, inhabitants of the greater Chesapeake by no means restricted their contention to those two arenas, at times engaging in the sort of open and violent defiance of imperial authority which no doubt inspired Governor Nicholson's unflattering characterization of their "loose, and vitious" life-style. Other forms of subversion were not as direct and were less calculated to convey disapproval of imperial policy than to enrich individual offenders through extortion, connivance, and other forms of corruption. Additional factors such as negligence, incompetence,

⁶ Spotswood, Letters, II, 48.

⁷ Ibid., 137.

administrative shortsightedness, and other bureaucratic deficiencies all contributed to a furtherance of illicit trade and customs fraud.

The two decades following the establishment of the colonial customs service in English America in 1673 exacted a frightful toll on the royal customs collection corps: three agents killed, two imprisoned, and one tried for treason.⁸ All but one of the incidents (including the three fatalities) occurred not, as one might expect, in notoriously recalcitrant and rebellious New England, but in the southern colonies, specifically in the greater Chesapeake. Nevertheless, most historians continue to portray Virginia, Maryland, and to a lesser degree, North Carolina as willing and submissive participants in the British imperial system. Rare indeed is the scholar who discerns that while much circumvention of the trade laws in the North was accomplished by tampering with the legal apparatus, in the greater Chesapeake "violence and even murder were resorted to for the same purpose."⁹

How is it that such intense outbursts of animosity, specifically directed at the executors of English imperial trade policy, have not been recognized as manifestations of a more deep-seated and generalized opposition to the Navigation Acts and their enforcement in the greater

⁸ Barrow, Trade and Empire, 21.

⁹ Alfred T. Goodrick in Randolph, Letters, VI, 41.

Chesapeake? The answer, in all probability, lies in the fact that much of the violence perpetrated against royal customs agents in the seventeenth-century Chesapeake occurred in conjunction with colonial upheavals that historians have come to regard as essentially, if not exclusively, political in nature. Furthermore, scholars have tended to characterize the political issues involved as internal disputes between rival colonial factions, not as contests of will between contending colonial and imperial interests. Another element that may have helped to obscure the significance of trade law issues in the disturbances is that the rebels in each instance cannot be identified consistently with the anti-trade law faction. Consequently, the resentment of restrictive trade regulations and onerous customs duties generally has been viewed not as a catalyst or contributing factor but as an incidental or irrelevant consideration in the colonial rebellions of Virginia, Maryland, and North Carolina.

Of all the violence inflicted on royal customs agents during the seventeenth-century disorders throughout the greater Chesapeake, opposition to royal customs prerogatives probably played the least prominent role in Virginia. Even so, there is reason to suspect that resistance to the Navigation Acts was a significant factor there. In the aftermath of Bacon's Rebellion, Governor Berkeley moved quickly to execute the opposition ringleaders.

Traditionally, little significance has been attached to the fact that one of the unfortunates to receive the death sentence, Giles Bland, was the royal collector of the Plantation Duty.¹⁰ Although Bland's allegiance to Bacon was undoubtedly the principal reason for his hanging, Berkeley had other motives for wanting to rid himself of this particular rebel. The two men had been at odds for some time over the manner in which the trade laws were being enforced, the customs agent having complained that he had no means to check the considerable amount of illegal commerce that was being conducted and, striking closer to home, having intimated that the governor himself was engaged in illicit trade.¹¹

The centrality of trade law opposition in the North Carolina disorders of the late 1670s is decidedly less ambiguous. Despite Charles M. Andrews' conclusion that imposition of the Plantation Duty could not have been a causal factor in Culpeper's Rebellion since it had only

¹⁰ See, for example, Andrews, Colonial Period of American History, IV, 138 and Wilcomb E. Washburn, The Governor and the Rebel: A History of Bacon's Rebellion in Virginia (Chapel Hill, N.C., 1957), 92-93, 108, 147.

¹¹ British Museum, Egerton Papers (on microfilm at Colonial Williamsburg Research Center) no. 2395, fo. 517; Beer, Old Colonial System, I, 290; Andrews, Colonial Period of American History, IV, 137, n. 3; Barrow, Trade and Empire, 22 nn. 5 and 6. Ironically, Bland's father, John, was a London merchant who advocated repeal of the Navigation Acts and open trade with Holland and who also, by his own admission, had been involved heavily in illicit tobacco trade with the Dutch (Barrow, Trade and Empire, 17; Andrews, Colonial Period of American History, IV, 137).

recently gone into effect, the importance of anti-trade law sentiment as a contributing element to the uprising is readily apparent in the affidavits subsequently filed by various eyewitnesses.¹² Shipwright Solomon Summers was unequivocal in his assertion that, only two or three days after the arrival of Albermarle collector and provisional governor Thomas Miller, "there was great abuse & affronts offered to him," not as a result of any provocation by Miller, but "meerly . . . by reason he was his Maj^{tys} Collect^r & had power to acco^t for his Maj^{tys} dues w^{ch} in y^e yeare before . . . they had deposed."¹³ Among the abuses and indignities which the customs agent suffered was being "violently assaulted" by a local resident who swore that "he would never have the King's Customes settled there as long as he lived."¹⁴

While the behavior of the mob might appear impulsive and arbitrary, there was clearly a method to its madness. Not content with abusing Miller, the rebels also sought to intimidate his subordinates (and anyone else who may have considered coming to their aid), to destroy the symbols and mechanisms of Miller's authority and, by extension, to send an insolent and defiant message to his royal superiors as

¹² Andrews, Colonial Period of American History, IV, 138; Lefler and Powell, Colonial North Carolina, 42.

¹³ CRNC, I, 296.

¹⁴ Ibid., 296-97.

well. Timothy Biggs, a deputy to the collector, corroborated Summers' testimony and further indicated that the rebels entered his house "wth Muskets and swords & broke open Chists & Locks, useing viallence to y^e deponants family & forceably took away . . . Millers Comissions & Instructions . . . & all the Records."¹⁵ Miller and other officials were then "clapt in irons" whereupon the "Rabble . . . Kept y^m close prisoners often Threetening to try and hang them," taking advantage of their confinement to reclaim the contraband that Miller had confiscated, scratch out official markings on tobacco hogsheads, and dispose of the goods among themselves and the New England traders.¹⁶ As if to underscore the nature and source of their discontent, the insurgents punctuated their seditious actions with "many irreverend speeches agst his Maj^{ts} Proclamations" concerning adherence to the navigation laws, "some . . . saing if y^e Gov^r or Lds . . . were there they would serve them in like mann^r."¹⁷

During the turmoil that attended Culpeper's Rebellion, one of the rebels expressed his desire to "freely run his knife" through Miller, a threat which, the potential assassin indicated, he would have carried out "were itt not

¹⁵ Ibid., 310.

¹⁶ Ibid., 297-98, 310-11.

¹⁷ Ibid., 297.

for feare of y^e law."¹⁸ Not even fear of the law succeeded in preventing the killing of two customs collectors in Maryland, however, and, judging by the legal consequences of the crimes, the perpetrators had little cause for concern in any case. During the absence of colonial proprietor Lord Baltimore in 1684, the council member left in charge, George Talbot, became intoxicated one night whereupon he insulted and ridiculed customs collector Christopher Rousby and stabbed the unarmed official to death. Although Talbot was tried and convicted, his death sentence was commuted to five years' banishment from the king's dominions, small justice, it would seem, for the unprovoked murder of an officer of the crown.

For those who were ill-inclined toward the customs service in Maryland, the reprimand administered to Talbot apparently had little, if any, deterrent effect. Less than a year after the assailant's term of banishment expired, another Maryland customs agent, John Payne, was mortally wounded while attempting to board a vessel for inspection. Most likely, the collector in this case was, to some extent, a casualty of the revolutionary movement that swept through Maryland under Protestant leader John Coode in 1689. Although some believed that the agent was acting on orders from Coode to seize members of the political opposition, Coode himself maintained that Payne sought to board Nicholas

¹⁸ Ibid., 296-97.

Sewall's yacht simply "to ask why they went to and fro without entering and clearing, and was shot dead," the explanation apparently accepted by the Lords of Trade who concluded that the collector had been killed "in the execution of his duty."¹⁹ Modern analysts differ over the question of the collector's intent but agree that, regardless of his motives, as an officer of the customs Payne was legally entitled to examine any vessel within his jurisdiction.²⁰

In both the Rousby and Payne incidents, plausible explanations for the commission of the crimes suggested by the immediate circumstances surrounding the killings -- personal animosity and drunkenness in one instance, revolutionary turmoil in the other -- have tended to discourage the search for more complex and comprehensive rationales. Examination of the events that preceded each incident, however, reveals that a history of contention and ill will related to trade law enforcement served as a prelude to both tragedies.

The bad blood between Rousby and colonial officials in Maryland apparently began sometime before April 1681 when the second Lord Baltimore sought to have the collector removed from his post. The charges submitted to royal

¹⁹ CSPC, XIII, #707, p. 204; #787, p. 224.

²⁰ Alfred T. Goodrick in Randolph, Letters, VI, 41; Barrow, Trade and Empire, 28-29.

authorities were for the most part vague, unsubstantiated, and laced with personal invective. Assailing Rousby as a traitor and a devil, the proprietor disparaged the "insolent and knavish" official as "the most lewd, debauched, swearing and profane fellow in the whole Government."²¹ As far as Rousby's performance on the job was concerned, Baltimore alleged that the customs agent extorted the merchants and, in so doing, had driven away a most desirable commerce conducted with New England and West Country traders.²² Ironically, it was Baltimore himself who had recommended Rousby's appointment in the first place.²³ Although he claimed to have been dissatisfied with the collector's performance for two years, he never mentioned it to Rousby, nor did he register any complaint with crown officials until shortly after Rousby left the colony to go to England.

English authorities were singularly unimpressed by the proprietor's arguments. After reviewing the evidence, the Commissioners of the Customs concluded that "it would be much to the King's prejudice and to the discouragement of the officers of the King's Customs in Maryland" if Rousby were to be dismissed.²⁴ The Lords of Trade concurred, noting that Baltimore had proceeded "in a very unusual

²¹ CSPC, XI, #129, p. 66; #151, pp. 78-79.

²² Ibid., XI, #129, p. 67; #151, pp. 78-79.

²³ Barrow, Trade and Empire, 27.

²⁴ CSPC, XI, #328, p. 161.

manner" and that he had "not sent sufficient proofs of his charges to gain them credence."²⁵ Rousby's subsequent reinstatement not only represented a personal vindication, but also may be viewed as a validation by English authorities of the countercharges that the collector articulated in defending himself. Admitting that some New England ships had indeed left the province as a result of his actions, Rousby explained that this had occurred not because he had abused their masters, but because their "trade was, in truth, to load tobacco and carry it whether they pleased without paying any customs at all."²⁶ As to the motives behind Baltimore's "importunate begging" for the collector's removal, Rousby concluded that it was the proprietor's design to rid the colony of all royal officials and "to place all the offices of Collectors and Surveyors in Maryland in the hands of his own creatures."²⁷ One such creature was Baltimore's stepson, Nicholas Sewall, whom the proprietor had already nominated to replace Rousby's successor.²⁸ Another was Baltimore's nephew, Colonel George Talbot.

Although Talbot never occupied a collector's or surveyor's post, he did assume the office of deputy governor

²⁵ Ibid., #382, p. 187.

²⁶ Ibid., #328 ii, p. 164.

²⁷ Ibid., p. 165.

²⁸ Ibid., #328 ix, p. 166.

when the proprietor returned to England in May 1684. In the absence of documentation concerning the prior relationship between Talbot and Christopher Rousby, one can only surmise that the antipathy Talbot displayed toward the customs agent on the night of October 31, 1684 derived from one or both of two factors: the colonel's close association with Baltimore and the resentment that the two probably shared over the proprietor's humiliation in the failed attempt to remove Rousby and, second, a more general and long-standing irritation with the collector's insistence on enforcing the Navigation Acts.

Talbot's bizarre behavior aboard H.M.S. Quaker that October evening (which included a series of overt homosexual advances toward guardship captain Thomas Allen) only serves to cloud the question of the colonel's actual intent when he boarded the vessel. Reportedly "inflamed by drink" at the time, Talbot later claimed that he had acted not "by malice or premeditation, but in the height of passion" (presumably anger rather than lust).²⁹ Some circumstantial evidence, however, supports the contention that the crime was premeditated, that the collector was "murther'd," as Edward Randolph charged, "in Cool Blood."³⁰ Communicating to English authorities shortly after the killing, Virginia

²⁹ Ibid., XII, #629, p. 173; #671, p. 188; #773, p. 216.

³⁰ Randolph, Letters, V, 265-66.

governor Lord Howard of Effingham reported that Talbot had instigated the quarrel intentionally and that the murder weapon had been "newly prepared and sharpened, evidently for some ill design."³¹ Captain Allen's account included Talbot's statement immediately after the stabbing to the effect that nothing troubled the colonel so much "as that he had not stabbed more, that he hoped to spill and drink a thousand of our bloods."³²

Talbot's remark serves to illustrate the point that underlying any personal animus toward Rousby as an individual was the aversion he experienced simply by virtue of his position as a royal official charged with the unenviable responsibility of preventing illicit trade in a colony where it was practiced regularly. Rousby undoubtedly understood this. All but the most naive customs officials in the greater Chesapeake realized that a certain degree of odium came with the territory. Over the years Rousby had been excoriated as "rogue, rascal, &c." so many times that his habitual response to such insults was simply "to pass them by as matter of course."³³

Like the customs agent himself, Lord Howard believed that what really lay at the heart of the colonists' hostility toward Rousby and Baltimore's attempt to replace

³¹ CSPC, XI, #1963, p. 734.

³² Ibid., #1963 i, p. 736.

³³ Ibid., #328 i, p. 163.

him was the collector's determination to enforce the laws against contrabandists and customs duty evaders. The governor also surmised that Rousby's professional dedication was what ultimately drove Talbot to eliminate the royal agent in a way that working through official channels had failed to accomplish.³⁴ Whatever actually motivated Talbot to attack the customs collector, it is evident that Rousby's contemporaries in service to the crown did not regard the incident as an isolated or anomalous one. Shortly after Rousby's murder, but well before Payne's death, Captain Allen presciently observed that "noe officer of the Customes in Maryland can live without a good guard."³⁵

Rousby's replacement, Nehemiah Blakiston, reported no improvement in the level of trade law obedience as a consequence of his predecessor's demise. Quite the contrary, he informed his superiors in England, he had been "continually discountenanced and obstructed" in his efforts to serve the crown and he begged English authorities "to put and end to the growing and intolerable insolences under which the King's officers have always suffered." His chief antagonists were colonial officials who, he lamented, "have contemned and disowned my commission, torn and burnt my certificates . . . and diverted masters from applying to me

³⁴ Ibid., #1963, p. 735.

³⁵ Cited in Barrow, Trade and Empire, 28.

. . . by which means . . . my transgressors have escaped and many frauds have been undetected."³⁶ The customs official described a particularly disturbing situation in which an agent of the Council of Maryland would preempt the collector by pretending to arrest any vessel he believed Blakiston was about to seize for illegal trading. The council's man would then strike a deal with the ship captain, condemn the vessel at a sham legal proceeding, and auction off the craft, at a ridiculously low price, to the very same skipper.³⁷

The alleged perpetrator of this series of deceptions was none other than Nicholas Sewall, "his lady's son" with whom Baltimore had hoped to replace Christopher Rousby. But the seriousness of the charges levelled against Sewall in this context paled by comparison with the gravity of the crime he would soon be accused of directing. Having fled to Virginia at the outbreak of Coode's rebellion in 1689, Sewall sailed his pleasure boat back to Maryland the following year and anchored in the Patuxent River just before collector John Payne's attempt to board the yacht. Although the proprietor's stepson evidently was ashore at the time of the shooting, Coode maintained that Sewall had threatened Payne with death before the incident and was "proved to have given orders for his men to act as they did."³⁸

³⁶ CSPC, XII, #136, pp. 30-31.

³⁷ Ibid., #136, p. 31; Barrow, Trade and Empire, 28.

³⁸ CSPC, XIII, #707, p. 204; #792, p. 238.

The combined effects of the murder of a second royal customs agent and the accession of the Protestant monarchs William and Mary to the English throne ensured the success of the revolutionary movement in Maryland and even facilitated the installation of Blakiston, the royal collector, as the colony's provisional chief executive.³⁹ But neither of these developments served to eliminate or, by any reliable measure, significantly reduce opposition to trade law enforcement in the colony. If those who had engaged in and supported illicit trade could not achieve their objectives through violence and intimidation, they successfully employed other means to do so.

Naturally, any effective campaign against illicit trade required not only diligent law enforcement, but also a judicial system sympathetic to the crown's interests. No matter how dedicated and capable customs collectors might be in discovering and seizing vessels suspected of illicit trade, failure to have the ships condemned in the colonial courts would nullify their efforts. With the establishment of royal rule in Maryland in 1691 and the appointment of a zealous surveyor general of the customs, Edward Randolph, crown officials undoubtedly anticipated a significant increase in the number of seizures and condemnations for illicit trade. Randolph's diligence insured the former, but

³⁹ Barrow, Trade and Empire, 29; Aubrey C. Land, Colonial Maryland: A History (Millwood, N.Y., 1981), 92.

his attempts to successfully prosecute offenders were thwarted by the anti-trade-law sentiments of Chesapeake juries.

During his first year in Maryland, Randolph prosecuted one vessel three times without success, a clear indication of the opposition he would face for the rest of the decade.⁴⁰ In 1698 the government prosecuted 59 cases involving forfeited bonds in Maryland. Only four resulted in convictions.⁴¹ Even in the rare instances where common-law courts issued judgments in the crown's favor, there was no guarantee that the penalty would be paid. Some colonists who had been convicted of failing to produce certificates for their navigation bonds simply conveyed their estates, "with intent to defraud his ma^{ty} of such Judgm^{ts}," to a friend or relative. The offenders then could claim insolvency and, technically, there would be no assets for the authorities to confiscate.⁴²

The crown's cause fared no better in Virginia. When Governor Nicholson ordered the seizure of the ship William and Mary because her captain, Thomas Meech, had been caught

⁴⁰ Randolph, Letters, VII 386-87; Md. A., XIII, 320, 327; Hall, Edward Randolph, 140. Before his arrival in the Chesapeake, Randolph had experienced similar obstruction in Massachusetts where the governor had sent one jury out three times in an unsuccessful effort to convict an alleged smuggler (Randolph, Letters, III, 176; Hall, Edward Randolph, 60).

⁴¹ Morriss, Colonial Trade of Maryland, 125.

⁴² Md. A., XXIII, 4, 121-22.

using counterfeit certificates to trade with Scotland, the surveyor general reported that his assistance in prosecuting the interloper was "all to no purpose for Court & Jury were resolved to clear the ship."⁴³ Only referral of the suit to the Commissioners of the Customs in England saved the government's case, eventually producing a plea bargained confession by Meech.⁴⁴ Just over a year later, Randolph appeared about ready to give up. In debating whether or not to litigate against the Scottish owner of a ship which had departed the colony without clearing, the customs official concluded that "No court or Jury will find against him so that Its to no purpose to sue them."⁴⁵ Randolph struggled gamely for two more years before finally admitting defeat. In requesting leave to return to England for the purpose of developing a more effective legal strategy with treasury and customs officials, he confessed to Governor Nicholson that, "by the partiality of juries and others" in the greater Chesapeake, he could "obtain no cause for his Majesty upon the most apparent evidences."⁴⁶

As the most avid crusader against illicit trade in the colonies Randolph was also, not surprisingly, the most vocal critic of the Maryland and Virginia courts. But others

⁴³. Randolph, Letters, VII, 349.

⁴⁴ Md. A., XX, 124.

⁴⁵ Randolph, Letters, VII, 445.

⁴⁶ Md. A., XX, 236-37; Hall, Edward Randolph, 153.

shared his exasperation. In 1695 Maryland secretary Sir Thomas Lawrence asked English authorities how other colonies managed to convict illicit traders, since his own experience had been that "country juries . . . hardly ever find against them."⁴⁷ The same year another loyal servant of the crown, Governor Francis Nicholson, complained that it was "a difficult thing to get judges and juries to try and condemn illegal traders."⁴⁸ Hoping to better understand the phenomenon and reverse the trend, Nicholson consulted a Maryland attorney who admitted in a rare, if somewhat understated, display of candor that "some of our Judges & some of our Juries . . . do oftentimes Judge according to the Affection or disaffection they have for the person plaintiffe or Defendant, and not according to the merit of the Cause or the Law that Arises upon the pleadings thereof."⁴⁹

To counteract these sentimental inclinations, the governor had to intervene directly in two instances to overturn provincial court judgments in favor of shipmasters accused of illegitimate trade practices.⁵⁰ Nicholson maintained that Chesapeake colonists already had begun "to pretend Custome" with regard to illicit trade and "claime it

⁴⁷ CSPC, XIV, #1916, p. 520.

⁴⁸ Ibid., #1896, p. 510.

⁴⁹ Md. A., XX, 439-40.

⁵⁰ Ibid., 128-29, 180-81, 188, 384-85.

as their Common Law." Something would have to be done, he warned, "for if they be allowed the benefit of their old Customs, t'will be in vain for me to prosecute illegal Traders."⁵¹ By 1696 Nicholson had grown so frustrated with the consistent failure of Maryland's general courts to convict contraband traffickers and duty evaders that he begged the Lords of Trade to instruct him as to how he might punish recalcitrant juries. "If there be no way of attainting juries in these parts," the governor insisted, "the King will not have justice done to him about illegal trade."⁵²

Nicholson's idea of attainting juries presented obvious practical difficulties in a colony where royal officials recently had been killed for provoking the inhabitants to a considerably lesser extent than would have been the case had crown officers attempted to administer punishment simply because of popular sympathy for illicit traders. The governor may have made the proposal in a fit of pique or frustration and, in any event, there is no indication that English authorities considered the recommendation seriously. Instead, royal officials proposed another measure which, with Nicholson's firm support, they managed to implement with some success.⁵³

⁵¹ Ibid., XXIII, 88-89.

⁵² CSPC, XIV, #2303, p. 654.

⁵³ Md. A., XX, 340; XXIII, 25.

Rather than attempt to influence popular sentiment regarding trade law enforcement, the strategy was to limit, as much as possible, local participation in the judicial process. By establishing vice-admiralty courts, crown authorities were able to control the legal machinery in colonial maritime cases by eliminating juries altogether and authorizing gubernatorial appointment, subject to English Admiralty approval, of judges to the maritime court. Under the Act of 1696 which mandated such courts for all the colonies, a vice-admiralty court with the power to appoint judges in North Carolina and the Bahamas was established as a permanent feature of Virginia's legal system by 1698.⁵⁴

Shortly thereafter Nicholson, now governor of Virginia, advised his superiors in England of the "absolute necessity" of maintaining such an institution in the colony.⁵⁵ As governor of Maryland he had discovered that "it was almost impossible to have the illegal traders condemned in any of the Courts of Common Law, but in the Court of Admiralty His Majesty had justice."⁵⁶ The Board of Trade soon came to regard the establishment of vice-admiralty courts in the colonies as a qualified success, declaring in its annual

⁵⁴ Crump, Colonial Admiralty Jurisdiction, 156; Middleton, Tobacco Coast, 366.

⁵⁵ Cited in Philip A. Bruce, Institutional History of Virginia in the Seventeenth Century, 2 vols. (New York, 1910), I, 702.

⁵⁶ CSPC, XVII, #579, p. 311.

report to the House of Commons that "where they have not been disputed," the courts had proved to be a "great encouragement to legal trade."⁵⁷

The court's jurisdiction was not disputed, for the most part, in Maryland and Virginia where, by the end of the seventeenth century, royal authority had become established firmly. But North Carolina was another matter. Both the corporate colonies of New England and the southern proprietary colonies generally opposed vice-admiralty courts as a matter of principle, claiming that the establishment of such institutions infringed upon the rights granted in their charters.⁵⁸ Already by 1687, well before the creation of vice-admiralty courts in the colonies, Albermarle county court functionaries had asserted that they were not bound by the provisions of the Navigation Acts and announced their intention to throw out a case of alleged illegal trade, claiming "the Benefit of their Charter" against the royal collector who sought to prosecute the suspected offender.⁵⁹ Ten years later North Carolina joined the other proprietaries in unsuccessfully petitioning the House of Lords against the installation of the courts under the

⁵⁷ Stock, Debates, II, 367; Steele, Politics of Colonial Policy, 47 n. 7.

⁵⁸ NCHCR, 1697-1701, xxv; Andrews, Colonial Period of American History, IV, 225-28, 255-58; Rediker, Deep Blue Sea, 314-15.

⁵⁹ Cited in Barrow, Trade and Empire, 27.

admiralty seal, pledging instead to institute vice-admiralty courts under their own charters.⁶⁰

Under the new system, the governor of Virginia considered that he had some authority over vice-admiralty affairs in North Carolina, a situation which might have caused considerable contention and resentment had it not been for a certain benign neglect on the part of Virginia officials. Except for the trial of Blackbeard's crew in 1718-19, which took place despite the protests of North Carolina officials, and another piracy case the following decade, no North Carolina admiralty affairs appear to have been litigated in a Virginia court.⁶¹ The other exception in 1727 involved several pirates apprehended in North Carolina whom residents of the proprietary colony surrendered to Virginia authorities for trial. North Carolina officials apparently realized that they had little choice but to act in accordance with the clear precedent, established in the Blackbeard proceedings, for Virginia's

⁶⁰ CRNC, I, 471-72, 473, 490-91; NCHCR, 1697-1701, xxvi; Doty, British Admiralty Board, 28-29. If they achieved nothing else, the petitions alerted royal officials to the potential problem areas in implementing the new system. In a 1699 circular to colonial governors and proprietors, England's Lords Justices wrote that "notwithstanding the instructions which have been constantly given," crown authorities continued to receive complaints, "most particularly in the Proprieties and Charter Governments, of great opposition to the establishment of . . . Courts of Admiralty" (CSPC, XVII, #601, pp. 328-29).

⁶¹ NCHCR, 1697-1701, xxvi-xxvii.

admiralty jurisdiction in cases involving piracy.⁶² Aside from these instances, however, even such a likely candidate for vice-admiralty adjudication as the looting and salvage of a Royal Navy guardship which had grounded on the North Carolina coast in 1698 was handled outside the admiralty court system, seemingly without protest by Virginia vice-admiralty officials.⁶³

Although North Carolina had the authority to convene vice-admiralty courts in matters other than piracy, inhabitants of the Albermarle region appear to have been reluctant to do so. During the first decade after 1698, only one North Carolina case is recorded as having been tried in a vice-admiralty court as such and, even in this rare instance, three of the four presiding judges were justices from the general court.⁶⁴ For the first quarter of the eighteenth century North Carolina's preference for settling its maritime judicial disputes in common-law rather than vice-admiralty courts persisted and, with the notable exception of the two piracy cases, the colony largely had its way until the period of transition from proprietary to royal control.

⁶² CRNC, II, 676-77; NCHCM, 1724-1730, liv, 203, 447-48.

⁶³ NCHCR, 1697-1701, lv-lvii; N.C. St. Arch., CCR 188, Letter of Thomas Harvey, 7/10/1698; CCR 192, Report of the Commission Appointed to Survey the Wreck of H.M.S. Swift, 6/8/1698.

⁶⁴ NCHCR, 1702-1708, xxxiv, 467-68.

In 1728 the High Court of Admiralty in England directly established a vice-admiralty court in North Carolina and appointed Edmund Porter judge.⁶⁵ It was then that serious opposition to vice-admiralty authority began to manifest itself. In rendering several decisions clearly intended to demonstrate the primacy of vice-admiralty over common-law jurisdiction, Porter succeeded in alienating much of the populace as well as Governor Richard Everard who complained to the Lords of Trade about "our Judge of the Admiralty whose proceedings are so violent and arbitrary as to occasion many complaints against him."⁶⁶ In presenting his grievances against Porter, the governor subtly intimated that the more fundamental problem lay with the court's disregard for individual liberties, pointedly appealing to their Lordships' "tender regard for the preservation of the Com:Laws and the rights and libertys of the Subject and the Englishmans Privileges of Juries."⁶⁷

By early 1730 Porter and his vice-admiralty court had antagonized a segment of the public to such an extent that an angry mob prevented the court from sitting, threatened to "murder the Judge of Admiralty," and set up in his place

⁶⁵ NCHCM, 1724-1730, lv.

⁶⁶ N.C. St. Arch., CCR 142, doc. nos. 11, 15-17; CRNC, II, 762; Andrews, Colonial Period of American History, IV, 256-57, 257 n. 1.

⁶⁷ CRNC, II, 762.

mock justices "in dirission of the Admiralty."⁶⁸

Unquestionably, some of the hostility expressed toward Porter was personal and was directed only incidentally toward his office. On the other hand, a climate of opposition to vice-admiralty courts and royal authority had been intensifying in the colony for some time. The previous year the marshal of the vice-admiralty court tried to deliver a summons to the master of a sloop which had flown the Union Jack (a practice forbidden to merchant vessels) "several times in a very insulting manner" in Edenton harbor.⁶⁹ After threatening to kill the marshal, the belligerent shipmaster and some of his mates reportedly came ashore with pistols and cutlasses, "swearing they valued ye Govt no more then they did the Judge of Ad^ty." Governor Everard, obviously no partisan of Porter, described the defiant actions as having been perpetrated specifically "wth design of insulting the Jurisdiction of the Admiralty."⁷⁰

Suspended by a new royal governor in 1731, Porter was eventually reinstated by the Board of Trade, but not before North Carolina's general court successfully contested the vice-admiralty court's jurisdiction, a tactic not infrequently employed in the colonies to obtain acquittal

⁶⁸ N.C. St. Arch., CCR 142, doc. no. 19; CRNC, II, 757-63; III 224-32, 511; Andrews, Colonial Period of American History, IV, 257 n. 1.

⁶⁹ N.C. St. Arch., CCR 142, doc. nos. 20, 31.

⁷⁰ Ibid., doc. no. 31.

for those involved in illicit maritime affairs.⁷¹ In a case which initially concerned the importation of foreign goods without proper clearance papers, Porter fined William Little for his impudence and "unparalleled Aspursans" in challenging the vice-admiralty court's authority.⁷² But Little was not intimidated. When Porter attempted to bring another charge against him the following year, the defendant sought and received a writ of prohibition from the chief justice of the general court preventing the vice-admiralty court from prosecuting him.⁷³

Vice-admiralty court records for the very next day reveal that an order to take Little into custody for contempt of court was crossed out. Instead, the text indicates that Porter read the accused's answer to the charge which "the Court knows to be falls" and yet, remarkably, consented to accept the prohibition.⁷⁴ Registering a counterclaim with the governor against Porter and the vice-admiralty court in 1731, Little articulated the colonists' clear preference for trials by juries of their peers. Reiterating the point made by Everard several years earlier, Little charged that Porter had "divested the

⁷¹ CRNC, IV, 224; Doty, British Admiralty Board, 34.

⁷² N.C. St. Arch., CCR 191, Vice-Admiralty Court Papers, 1/27/1729 and 1/10/1730.

⁷³ Ibid., CCR 142, doc. no. 38.

⁷⁴ Ibid., doc. no. 39.

Subjects of the Benifit of the common Law which is Every Englishmans birth right."⁷⁵

Popular opposition to the Navigation Acts and customs regulations manifested itself in a variety of ways other than outright lawlessness and judicial sympathy for accused smugglers. As Francis Nicholson indicated in 1697, the Chesapeake governors not only experienced considerable difficulty in their efforts to hinder illicit trade in the common courts, but also in the colonial assemblies where the people's representatives frequently thwarted measures intended to foster compliance with the trade laws and duty payment regulations.

In 1697, for example, both Nicholson and Virginia governor Edmund Andros advocated the establishment of ports, or at least "particular places for loading and unloading," as a "great means to prevent illegal Traders" and secure the royal customs.⁷⁶ Eight years later Maryland governor John Seymour was still calling for designated landing and embarkation locations, but, he advised English authorities, "ye Assembly will never consent to have it made a law by them, and therefore have hitherto ever opposed it for ye sake of clandestinely unshipping the Goods brought from England, and Shipping their tobacco at their own Dores,

⁷⁵ CRNC, III, 224.

⁷⁶ CSPC, XV, #956 i., pp. 455-56; Md. A., XXIII, 86.

which makes it impossible for all the Officers in the World to know what is shipt or unshipt."⁷⁷ Virginia lawmakers did pass several bills in the late seventeenth and early eighteenth century authorizing the establishment of ports, though not necessarily (as subsequent disapproval of the acts by English authorities suggests) for the purpose of preventing contraband trade. Virginians were willing to accept closer supervision of their shipping activities, which they knew would curtail smuggling substantially, but only in return for permission to develop manufactures, a concession that British authorities were loath to make.⁷⁸

Moreover, the Maryland and Virginia assemblies declined to cooperate in the passage of other legislation specifically designed to impede unlawful commerce. In 1695 London merchants complained to the king about the colonial practice of shipping tobacco in bulk because it facilitated illicit distribution which, in turn, lowered prices in the legal market.⁷⁹ Although the king ordered the Maryland and Virginia governors to enact legislation in the late 1680s prohibiting the procedure on the grounds that it was "Detrimental & Ruinous to the Trade" of the two colonies,

⁷⁷ CSPC, XXII, #1201, p. 552; Morriss, Colonial Trade of Maryland, 89.

⁷⁸ Billings, Selby, and Tate, Colonial Virginia, 133.

⁷⁹ Stock, Debates, II, 111.

both assemblies refused to comply.⁸⁰ It was not until 1730, with the passage of the comprehensive warehouse inspection act (for which Governor Gooch had to campaign so diligently and skillfully), that Virginians finally consented to proscribe "that pernicious Practice of running Tobacco without paying the Duty, which," the governor asserted, had been "no less injurious to the fair Trader, than prejudicial to his Majesty's Revenues."⁸¹ Gooch was able to persuade the colonists to abandon smuggling, as had been the case with the town acts, only by offering a sufficient financial incentive: higher prices for their tobacco.

Colonial legislatures exhibited a similar reluctance to initiate or endorse proposals aimed at improving trade law enforcement in Chesapeake waters. Having received orders to hire a vessel to cruise the bay against smugglers, Virginia governor Andros reported in 1695 that he had been "advised not to enforce the charge thereof in the Assembly, as not

⁸⁰ EJC I, 88; JHB, 1659/60, 306, 317-18, 319, 322-23; CSPC, XIII, #2300, p. 661; Md. A., VIII, 335; Md. A. XIX, 90-91; Morriss, Colonial Trade of Maryland, 97.

⁸¹ C05/1322, pp. 54-5. As early as 1713 Governor Spotswood proposed and the Virginia assembly approved a similar tobacco inspection act, but opponents of the law, who objected to it for economic and political reasons, persuaded the home government to disallow it in 1717 (Hemphill, Virginia and the English Commercial System, 40-41; Billings, Selby, and Tate, Colonial Virginia, 178, 180-82, 185).

likely to be obtained."⁸² Two years later, an irritated Governor Nicholson observed that, although Marylanders were quick to complain about the illegitimate maritime commercial practices of neighboring Pennsylvanians, yet they could "by no means be brought to address the King for a frigate to cruise about this province," chiefly, he supposed, because they feared that it might impede illicit trade.⁸³

In 1714 the naval officer for the Lower James River district petitioned the Virginia assembly for an appropriation of L24 a year out of the duty on liquors to subsidize the cost of maintaining a small patrol boat, but the burgesses declined to grant even this small request.⁸⁴ Several years later Governor Spotswood informed English authorities of similar opposition by the assembly to his efforts to suppress fraud in Virginia's tar and pitch trade. "But as to getting a Law passed here for preventing the same Trade," Spotswood lamented, "I must beg leave to inform Yo'r Lord'ps of the difficultys of bringing this, or any other Branch of the Trade of this Country, under a just Regulation." The governor implied that lawlessness had become more or less institutionalized in Virginia when he asserted that "the Liberty of doing wrong is none of ye

⁸² CSPC, XIV, #1871, p. 497.

⁸³ Ibid., XV, #1178, p. 547.

⁸⁴ Spotswood, Letters, II, 103-06, 108; JHB, 1712-26, 87; Dodson, Alexander Spotswood, 65.

least contended for here."⁸⁵ Spotswood's sentiments echoed those of Benjamin Harrison who, writing about the prevalence of illegal trade and customs fraud twenty years earlier, despaired that "the course of affairs . . . has run so long in the same channel that it now looks like justice for it to continue, and . . . it is become almost criminal to argue against it."⁸⁶

During Spotswood's tenure resistance also took the form of demagoguery on the part of colonists holding official posts who exploited public antipathy toward royal authority for their own purposes. When the governor attempted to institute reforms in 1712 to correct the deficiencies of the colony's inscrutable accounting system (particularly with regard to the two shilling per hogshead duty), he reported the following: "I met with an opposition . . . little expected from the King's Officers . . . not contented with obstinately disputing whatever I proposed . . . they endeavor'd to raise the Clamour of the Country against me by unfairly insinuating into the minds of the People y't it was their Cause they were defending against a Governor who aimed at Inovations that would oppress them."⁸⁷

Sometimes personal enemies and political opponents agitated not simply to thwart the policies and initiatives

⁸⁵ Spotswood, Letters, II, 300.

⁸⁶ CSPC, XVI, #656, p. 330.

⁸⁷ Spotswood, Letters, II, 179-80.

of royal governors and customs authorities, but to discredit the officials themselves. An interesting corollary to the issue of official venality concerns the fabrication of charges, almost invariably by individuals who were under suspicion themselves, alleging complicity in illicit trade on the part of those government officers who sought to enforce the Navigation Acts most aggressively. The patent absurdity of some of these allegations often represented a desperate and, in some cases, fairly transparent attempt to divert attention from the accusers' own misdeeds.

Sometimes the charges were simply blatant, but generalized, attempts at character assassination, as when Edward Randolph's enemies in Maryland accused him of "rude and insolent behavior" and consorting "with none others but Professed Papists and . . . their Majestys open and known enemies." In another instance, however, Lieutenant Governor William Markham of Pennsylvania, long suspected by Randolph and others of abetting pirates, contrived in 1692 to obtain a deposition from a merchant stating that the surveyor general had offered to discharge a forfeited bond in return for a cash payment.⁸⁸

The same allegation surfaced again in October 1694 when two members of the Council of Maryland, hoping to prevent the customs agent's appointment to their committee, accused Randolph of actually accepting the bribe "of Twinty peices

⁸⁸ Randolph, Letters, V, 86-87, 88-89.

of Eight" in Pennsylvania. The rest of the council, however, "not seeing cause why their Majt^{ies} Orders relateing to M^r Randolphs Admittance ought not to be Observed" peremptorily dismissed the charge and voted to admit Randolph.⁸⁹ Although the identities of the dissenting councilors are not recorded, one of them almost certainly was Thomas Tench, a provincial (and, subsequently, vice-admiralty) court judge and owner of a ship which had been seized and was currently under litigation for trade law violations.⁹⁰

A similar episode appears to have occurred in 1698 when Council of Virginia member Daniel Parke engineered a preemptive attack on the outspoken whistle blower, Benjamin Harrison. The same day Harrison was to present his startling exposé on illicit trade and customs fraud in Virginia, Parke first submitted his own memorial which amounted to little more than an attempt to disparage Harrison (and, indirectly, James Blair as well) by intimating that Harrison was involved in a contraband trade to Scotland.⁹¹ Although the councilor was supported in his allegations by a local collector, it is also clear that Parke knew that Harrison was about to deliver a searing

⁸⁹ Md. A., XX, 155-56.

⁹⁰ Ibid., 106, 128-30, 243-44, 461-62; Randolph, Letters, VII, 467.

⁹¹ CSPC, XVI, #655, pp. 329-30.

indictment of the council, a denunciation which included, as it turned out, the specific charge that Parke, fearing "the fatal consequences of a prosecution to himself," had opted to "desist from giving any legal information" concerning the venality of a fellow councilor and collector "though . . . it was his duty as a magistrate and a councilor to do so."⁹² Despite a historian's recent intimation that both Parke and Harrison probably were guilty of involvement in illicit trade, Harrison's subsequent nomination to the council and the crown's approval of his appointment suggests that it was Harrison's charges, not Parke's, to which royal authorities ultimately gave credence.⁹³

In 1716 Alexander Spotswood bore the brunt of false imputations of wrongdoing in the maritime trade sphere when a group of anonymous complainants, hoping to oust the governor, sent a letter to English authorities accusing him of "directing and forcing the Officers of the Customs to demand, Extort and take from the Masters or Commanders of any Ship or Vessell . . . fees or pretended dues not warranted by some Law." Spotswood vehemently denied the charges, citing instances in which he had reduced or foregone his "undoubted Dues, either for the encouragement of Trade or for the relief of unfortunate Masters and Owners

⁹² Ibid., #656, p. 330.

⁹³ Billings, Selby, and Tate, Colonial Virginia, 155; CSPC, XVI, #1038, p. 572.

of Vessells." Although there was some truth to the allegations -- the governor conceded that he had accepted one fee which had not been specifically authorized -- it is nevertheless clear that the claims against him were greatly exaggerated.⁹⁴

Despite their persistent, vigorous, and sometimes violent opposition to the executors of English imperial trade policy, the planters and shipmasters of the greater Chesapeake realized that, ultimately, they would have to reconcile their disinclination to obey the Navigation Acts with the home government's insistence that they conform to the trade laws through some form of compromise. Over a period of years a working arrangement appears to have evolved in many customs districts whereby shipmasters would pay a nominal duty on their freight and collectors would receive their fees, but with the mutual understanding that no one would bother to check too carefully on the actual volume or nature of exported goods. Having detected a pronounced lack of diligence on the part of customs officials in Maryland and Virginia, Edward Randolph complained to his superiors in 1692, for example, that "not one of the Collectors voutsafe to go a'board ships upon their arrival . nor appoint persons to do it; but leave the

⁹⁴ Spotswood, Letters, II, 191-92.

honest M^{rs} to do as they please. their chief business is .
to secure ye 2^d p Hogg^d & their fees."⁹⁵

The reluctance of the Chesapeake collectors to institute strict inspection and condemnation procedures frustrated most conscientious royal governors in Virginia and Maryland and absolutely infuriated Randolph, but many customs officers explained their behavior as the only practical approach to the problem of customs inspection and revenue collection. When Randolph chastised Nehemiah Blakiston in front of Governor Nicholson for clearing, contrary to the surveyor general's direct orders, two ships suspected of illicit trade, the collector and councilor reportedly replied that governing officials "must admit of w^t security ye Country afforded or must take none."⁹⁶ Another collector cautioned Randolph that "t'was better to be quiett & not disturb the trade of the country: for it would be to no purpose."⁹⁷ The colonists had adopted this attitude, the surveyor general was convinced, "to support illegal trade & to tire me out."⁹⁸

Other officials also took the position that insistence on following the letter of the law in the colonies might not prove the wisest course. In one of the many condemnation

⁹⁵ Randolph, Letters, VII, 350.

⁹⁶ Ibid., 359; CSPC, XIII, #2295, p. 656.

⁹⁷ Randolph, Letters, VII, 460.

⁹⁸ Ibid.

proceedings in which a seizure made by Randolph was overturned by a court or jury, the presiding judge advised the surveyor general not to be overly concerned with observing the "nicetyes of the Acts of Trade."⁹⁹ What these vignettes illustrate is the divergent perceptions of zealous royal officials, on the one hand, and Chesapeake colonists on the other. What one group deemed to be flagrant violations of the trade laws and customs regulations, the other regarded as a necessary, even desirable, flexibility in the system. That which strict crown authorities considered criminal, most bay area residents viewed as merely practical.

The permissive attitude toward observance of the trade laws was so prevalent among the colonists that even royal governors felt the pressure to compromise. Contemplating the possibility of Lord Baltimore's return to power in Maryland, Governor Nicholson advised the Board of Trade in 1698 that "his Lordp will consider that the best, if not the only way to promote his temporal Interest here, will be not to disturb them in their illegal trade, or other ill practices: for fear that if they can not enjoy them under his Lordp^s Government; they may assume it to them selves: which will be no very difficult thing for them to do."¹⁰⁰ None of the colonial governors could have been any more

⁹⁹ Ibid., 382.

¹⁰⁰ Md. A., XXIII, 491.

earnest in his commitment to safeguarding the king's revenues than Alexander Spotswood, but even he found himself siding with the colonists in arguing for a liberal interpretation of royal instructions forbidding the appointment of men deeply involved in colonial commerce to customs collection and inspection posts. Strict application of the rules, the governor cautioned, would result in the disqualification from office of all men of means and ability, the same men, coincidentally, whose support Spotswood needed in the council and the assembly in order to govern effectively.¹⁰¹

Toward the end of the governor's tenure, additional pressure to compromise began to be exerted from what Spotswood, and those who shared his commitment to conscientious observance of imperial trade regulations, must have considered a most unlikely source: the home government itself. From the early 1720s British authorities under the direction of Prime Minister Robert Walpole embraced a policy of "salutary neglect" with regard to the American colonies. Designed to maintain the prosperity of Great Britain and the attachment of overseas settlements through "accommodation rather than confrontation," this strategy entailed a relaxation in enforcement of the Navigation Acts.¹⁰²

¹⁰¹ Spotswood, Letters, I, 179.

¹⁰² Jack P. Greene, "An Uneasy Connection: An Analysis of the Preconditions of the American Revolution" in Essays in the American Revolution, Stephen G. Kurtz and James H.

Other developments in the government lent themselves to the pursuit of such a policy. Beginning with the accession of the first Hanoverian king in Britain in 1715, the Board of Trade, the agency most directly concerned with colonial commerce and trade law compliance, began to decline in influence.¹⁰³ As part of an administration in which the formulation and execution of policy was subordinated to the quest for patronage, by the early 1740s the Board had been reduced to a condition of "docile impotence."¹⁰⁴ During the interim, at a time when many observers felt that the American customs establishment was in desperate need of reinforcement, the Commissioners of the Customs undertook a major cost-cutting initiative in 1725 which resulted in the elimination of twelve colonial duty collection and contraband detection posts and salary reductions for many others. Eight of the twelve discontinued positions were in Maryland and Virginia.¹⁰⁵

The practical consequences of these developments can easily be imagined. The departure of so many customs agents must have looked like a tactical retreat, if not an open

Hutson, eds. (New York, 1973), 64; Barrow, Trade and Empire, 115-16; James A. Henretta, "Salutary Neglect:" Colonial Administration Under the Duke of Newcastle (Princeton, 1972), 65-66.

¹⁰³ Barrow, Trade and Empire, 111; Henretta, "Salutary Neglect", 24-27.

¹⁰⁴ Henretta, "Salutary Neglect", 165, 259.

¹⁰⁵ Barrow Trade and Empire, 106-07.

invitation, to Chesapeake smugglers. The exigencies of the patronage system also meant that, by the 1740s, colonial governors no longer had the power to appoint provincial naval officers. The insistence of the Duke of Newcastle, secretary of state for the southern department, on controlling all such appointments himself not only undercut the authority of the colonial chief executives, but insured that, in at least some instances, less dedicated and competent individuals would occupy the customs offices.¹⁰⁶ Moreover, the government's policy of "appeasement, not . . . coercion," coupled with the intransigence of colonial courts and juries, induced some customs officials to "compose," or settle out of court to their own financial advantage, litigation arising from their prosecution of trade law violations.¹⁰⁷

The attempt to resolve the dilemmas of illicit commerce and trade law enforcement in the greater Chesapeake may be viewed as an effort to narrow the gap between the competing interests of the colonists and the royal government. The success of the colonial governors in this regard can be gauged by evaluating the extent to which they managed to reconcile or minimize these conflicts. In that sense Virginia governor Gooch's establishment of the tobacco inspection system may be considered a virtual tour de force.

¹⁰⁶ Henretta, "Salutary Neglect", 246-60.

¹⁰⁷ Barrow, Trade and Empire, 116, 127-28.

Whether the program itself was responsible for rescuing the colony from the depression of the 1720s is debatable, but, when the economy rebounded after a few difficult years, most planters credited Gooch's plan and so became willing participants.¹⁰⁸

The success of the scheme, whether actual or merely perceived, significantly reduced the incentive to smuggle, a phenomenon which the relatively few documented instances of, or complaints about, illicit tobacco trade in Virginia and Maryland (which adopted the inspection system in 1747) in subsequent years appears to bear out.¹⁰⁹ With the economic resurgence of the 1730s, tobacco planters and shippers not only complied with the new regulations for the most part, but became, to a degree, active proponents and defenders of the inspection system. Unlike previous years, when Virginia's burgesses resisted or sought to undermine imperial directives designed to strengthen the overseas customs service, the colonial assembly, after some initial

¹⁰⁸ Janis M. Horne, "The Opposition to the Virginia Tobacco Inspection Act of 1730," honors thesis, College of William and Mary (Williamsburg, 1977), 118.

¹⁰⁹ Another way in which the tobacco inspection act may have reduced the incentive to smuggle was by alleviating the chronic currency shortage through the use of warehouse certificates (Horne, "Tobacco Inspection Act," 107). Previously, the opportunity to obtain scarce specie constituted an inducement to Chesapeake colonists to engage in illicit trade, sometimes with pirates.

vacillation, beat back several attempts to repeal the inspection act.¹¹⁰

But if adoption of a tobacco inspection system by Virginians, Marylanders, and, eventually, North Carolinians appeared to join Chesapeake colonists in partnership with imperial authority, in reality it amounted to little more than a marriage of convenience. In 1734 the president and masters of the College of William and Mary reported that the revenue from the penny per pound duty had become "so sunk, that it brings in nothing at all," the reason being that smugglers, "by a quick Transportation" over the Potomac River managed to avoid the payment of any duties whatsoever.¹¹¹ It was concern over these and similar violations (as well as, one might infer, the laxity or connivance of government officials) that no doubt prompted

¹¹⁰ Billings, Selby, and Tate, Colonial Virginia, 244-45. It could be argued that Virginians already were moving in the direction of adopting an inspection system by 1726 when the assembly passed legislation aimed at thwarting neighboring North Carolinians who, "being under no regulation in the manner of making and packing their tobacco, do not withstanding make and transport into this colony, for traffic and sale, great quantities of tobacco, deceitfully packed, and unfit for exportation, and yet pass the same as tobacco of the growth and manufacture of Virginia, to the great deceit of honest traders, and the depreciating the staple commodity of this country" (Hening, Statutes, IV, 175; CRNC, II, 683). The original tobacco inspection scheme, for which Governor Spotswood took credit in 1713, met with almost universal opposition in both the colony and the home country (Billings, Selby, and Tate, Colonial Virginia, 178, 180-82, 185; Horne, "Tobacco Inspection Act," 12-14; Hemphill, Virginia and the English Commercial System, 40-41).

¹¹¹ JHB, 1727-40, 211.

Virginia legislators to pass a law in 1738 requiring inspectors, sheriffs, and constables to vow to report all instances of planters disposing of tobacco prior to inspection or transporting the weed to Maryland or North Carolina without a permit.¹¹² And, although abiding by the regulations for tobacco export generally favored the interests of the planters and shippers, nevertheless repeated admissions by North Carolina lawmakers that previous legislation against frauds in the tobacco trade had been ineffectual indicate that local residents continued to engage in the "clandestine running" of bulk tobacco well past mid-century.¹¹³ Despite considerable success in reducing the incentive to engage in contraband activities, even the successful innovator of the warehouse inspection system, Governor Gooch, had to admit in 1743 that, in the final analysis, when an opportunity to smuggle a cargo of prohibited goods into the colony presented itself, "the Country People are ready upon all Occasions to assist the offenders in concealment thereof."¹¹⁴

¹¹² Hening, Statutes, V, 13; Flippin, William Gooch, 23.

¹¹³ CRNC, XXIII, 728, 948.

¹¹⁴ "Gooch Correspondence," vol. 3, Gooch to the Board of Trade, 8/22/1743; Flippin, William Gooch, 16.

CHAPTER V

"The Contrivance and Corruption of our Officers": Fraud, Negligence, and Mismanagement in the Customs Administration

As ineffectual as the colonial courts may have been in meting out the king's justice to violators of the navigation laws, there was at least a chance when a case was brought to trial that illicit traders might be punished. But a far greater percentage of offenses never went to court, not only because detection was difficult, but because customs officials frequently were guilty of negligence and corruption. So if, in contrast to North Carolina, overt opposition to and legal maneuvering against vice-admiralty jurisdiction appear to be conspicuously absent in Virginia and Maryland, the explanation may have less to do with submissive compliance with the law than the fact that in most cases there simply was no need to oppose the court actively.

Through the dereliction or connivance of customs agents and other government officials, many, perhaps most, perpetrators of illicit trade and revenue fraud were never apprehended, much less prosecuted. As early as 1692 even

the indefatigable Randolph despaired that "all help is too little to stem the illegal trade which has been encouraged by the ignorance of some and the countenance of others."¹ And before the establishment of vice-admiralty courts in the greater Chesapeake, those alleged offenders who were brought to trial usually could expect sympathetic judges who often engaged, or had a personal interest, in some form of illicit trade themselves.

The two most important local customs officials in the colonies were the collector and the naval officer. As the agents specifically charged with the prevention and discovery of illicit trade, these officials formed the first line of defense against smuggling and revenue fraud on the landward side of the colonial maritime frontier. Naval officers, though the term would seem to suggest otherwise, performed clerical functions unrelated, in any direct sense, either to the actual navigation of ships or to the command hierarchy of England's Royal Navy. Governors, as the highest ranking officials in the colonies and the ones principally responsible for insuring compliance with the Navigation Acts, served as the first naval officers. In the 1670s the governors began to depute others to assume the duties of the naval office. Because of the long, indented shorelines and the absence of established ports in Maryland

¹ CSPC, XIII, #2295, p. 660.

and Virginia, governors eventually appointed naval officers for six districts in each of those colonies.²

In time another official, the collector, came to supersede the naval officer in importance and authority.³ In theory, the collector assumed primary responsibility for the proper entering and clearing of cargoes and payment of the requisite duties.⁴ The naval officer, meanwhile, was charged with the specific tasks of granting certificates, administering shipmasters' oaths, taking bonds, and examining all ships' documents for their accuracy and authenticity.⁵ Although crown authorities periodically spelled out the duties of collectors and naval officers in some detail, there was considerable confusion about their respective functions in practice.⁶ A 1736 list of fees in North Carolina indicates that both officials were accountable for "Entring inwards & clearing outwards every

² Andrews, Colonial Period of American History, IV, 180-82; Peter Bergstrom, "Markets and Merchants: Economic Diversification in Colonial Virginia, 1700-1775," Ph.D. dissertation (University of New Hampshire, 1980), 68.

³ Barrow, Trade and Empire, 76, 78; Neil Stout, The Royal Navy in America, 1760-1775: A Study of Enforcement of British Colonial Policy in the Era of the American Revolution (Annapolis, 1973), 7.

⁴ Barrow, Trade and Empire, 76; Andrews, Colonial Period of American History, IV, 149 n. 1.

⁵ Andrews, Colonial Period of American History, IV, 187 n. 2, 188-89; Barrow, Trade and Empire, 76-78; Bergstrom, "Merchants and Markets," 88-91.

⁶ Andrews, Colonial Period of American History, IV, 148-49, 197, 205; Barrow, Trade and Empire, 76.

vessell" within their districts.⁷ To some degree, this duplication of responsibility was intentional. In 1698 the Lords Justices of England, "having been informed that the Navall Officers . . . generally neglected to comply with the . . . Act of Parliament for preventing frauds & regulating Abuses in y^e Plantation Trade," required the concurrence of a collector as a "controule upon y^e action of every officer employed" in examining cocquets and certificates, taking bond, and clearing ships.⁸

Collectors and naval officers came from varied backgrounds. Some, like George Muschamp who served as a collector in both North Carolina and Maryland, received appointments because their fathers had worked for the customs service in the home country.⁹ Others were transferred to the plantations from posts in England or Ireland, but the large majority of customs agents in the greater Chesapeake appear to have been selected from local ranks.¹⁰ Some of these individuals undoubtedly were chosen because of their associations with men of influence in England, as was the case with Edward Hill and James Bowles who made use of English connections to secure

⁷ CRNC, IV, 195-96.

⁸ Ibid., I, 492.

⁹ Barrow, Trade and Empire, 80; Andrews, Colonial Period of American History, IV, 197, 198 n. 1.

¹⁰ Bergstrom, "Merchants and Markets," 60-61, 77-78.

positions as collectors in Virginia and Maryland, respectively.¹¹ Others received appointments because they, or one of their relatives, had gained favor with the governor or the surveyor general. In 1712, for example, when Colonel Richard Lee's "advanced age would no longer permit him to execute . . . the duty of Naval Officer" in northern Virginia, Alexander Spotswood concluded that he "could not better reward his [Lee's] merit than by bestowing that employment on his son."¹² Over twenty years later, Henry Lee was able to succeed his brother, Thomas, in the same post.¹³

While governors had the authority to appoint naval officers (at least until the 1740s), they normally exercised little influence over the selection of collectors, who owed their appointments to the Commissioners of the Customs in England.¹⁴ Consequently, collectors answered directly to the surveyors general and, ultimately, to the customs commissioners in England. Although the latter usually acted favorably on the recommendations of surveyors general when it came to filling vacancies among the collectors, men such as Edward Randolph and Robert Quay had no official say in

¹¹ Barrow, Trade and Empire, 79, 81; Andrews, Colonial Period of American History, IV, 197.

¹² Spotswood, Letters, I, 179.

¹³ Bergstrom, "Merchants and Markets," 72.

¹⁴ Andrews, Colonial Period of American History, IV, 187-88; Bergstrom, "Merchants and Markets," 73-74.

the choice of naval officers. As a result, both governors and surveyors general sometimes expressed dissatisfaction with the performance of local customs officials whose assignments they had not sanctioned. Occasionally, though, the difficulties that royal officials on the scene experienced with local customs agents were of their own making.

In 1692 Edward Randolph recommended Charles Scarborough (or Scarburgh) to replace a corrupt collector on Virginia's Eastern Shore. Scarborough recently had gained the surveyor general's confidence by informing against two illegal traders and had impressed Randolph as a person "well acquainted wth all ye Intreagues of Interlopers."¹⁵ Evidently, though, familiarity with the smugglers' schemes did not guarantee zeal in their apprehension. Barely two years later Randolph identified Scarborough as one of a half dozen custom officials in Virginia and Maryland who had permitted illicit traders to clear from their districts.¹⁶ The distinction for the most dramatic and, no doubt, embarrassing exercise in poor character judgment belonged to Alexander Spotswood, however. In 1715 Spotswood used his prerogative to fill the vacant post of naval officer with John Holloway, a distinguished Williamsburg attorney, and "a person," the governor confidently asserted, "for whose

¹⁵ Randolph, Letters, VII, 370.

¹⁶ Ibid., 472-73.

Capacity and Integrity I can very readily answer."¹⁷ By the end of the decade, however, Spotswood reported that Holloway had brought suit against the government in an "unjust Action in behalf of a notorious pirat" and had become the governor's "implacable Enemy" for his consistent advocacy of maritime lawbreakers.¹⁸

Randolph and Spotswood might have consoled themselves in the knowledge that unsatisfactory performance on the part of colonial customs officers long predated their tenures. In fact, English authorities had been complaining about poor enforcement of the Navigation Acts in Virginia and the other Chesapeake colonies throughout the second half of the seventeenth century. Persuaded as early as 1662 that royal customs revenues were in no way commensurate with the amount of tobacco annually exported from the Chesapeake, English officials repeatedly expressed to Virginia governors the conviction that "such abuses cannot be committed without the apparent negligence of the collectors or their connivance with the . . . masters of ships."¹⁹ When the Commissioners of the Customs advised a Maryland collector in 1696 of the passage of the Scottish act establishing a trading company to America, they pointedly remarked that the

¹⁷ Spotswood, Letters, II, 106.

¹⁸ Ibid., II, 319, 354.

¹⁹ Leonard W. Labaree, ed., Royal Instructions to the British Colonial Governors, 1670-1776 (New York, 1935), II, #924, p. 663.

only way the Scots might gain an advantage over their English competitors would be through the "Contrivance and Corruption" of colonial customs agents.²⁰

Ultimately, however, English authorities held the colonial governors responsible for the performance of the officers under their supervision in enforcing imperial trade regulations. In 1667 the Commissioners of the Treasury described wholesale customs violations which, they reported, "his Majesty cannot but in great measure impute to the neglect of duty in his governors of the said Plantations who have not been so careful as they ought in debarring all trade with such ships as have come without certificate from England, nor in taking bond from such as are permitted to trade from other plantations, and returning the same to the chief officers of the Customs in London as is particularly directed."²¹ The Privy Council in 1669 and the Lords of Trade in 1675 issued stern orders to the governors of Virginia and Maryland to obey their instructions and be more conscientious about preventing illicit trade.²²

In an effort to instill a greater sense of responsibility at the highest level of colonial

²⁰ Md. A., XX, 345.

²¹ CTB, II, 202; Andrews, Colonial Period of American History, IV, 144-45, n. 2.

²² APCC, I, #827-29, pp. 499-501; Md. A., V, 45-48; CSPC, IX, #875, p. 371; Andrews, Colonial Period of American History, IV, 145-47.

administration for the suppression of illegal trade practices, Parliament insisted that the governors pledge to support the provisions of the Act of 1696 against illicit commerce. Where warnings had failed in the past, royal authorities hoped that the threat of sanctions might succeed. The act stipulated that failure to take the oath or enforce the regulations would result in forfeiture of the governorship and a L1000 fine. But the legislation seems not to have had the desired effect, at least not in the short run. Two years later Edward Randolph cynically remarked that the governors took their oaths "not in obedience to the acts of trade but to avoid the paym^t of L1000 forfeited upon their refusall."²³ Instructions to the Virginia governor in 1697 and Carolina proprietors in 1699 clearly expressed the crown's unremitting frustration with the level of trade law enforcement in the greater Chesapeake, charging that "very great Abuses have been and continue still to be practiced . . . w^{ch} abuses must needs arise from . . . the remisness or conivance of such as have been or are Governors."²⁴

In fairness to the governors, many of the abuses that continued to plague the system lay effectively beyond their

²³ Randolph, Letters, V, 189; CSPC, XVI, #769, p. 402; Andrews, Colonial Period of American History, IV, 162.

²⁴ Md. A., XXIII, 91; CRNC, I, 504.

control. Geography, dispersed settlement patterns, insufficient administrative resources, and local opposition throughout the greater Chesapeake all conspired against effective trade law enforcement, leading Virginia governor William Gooch to conclude in 1730 that "For preventing illegal trade the only methods that are or can be used is the diligence of the naval officers and collectors."²⁵ Due to a combination of ineptitude, indolence, neglect, and purposeful malfeasance, however, such diligence was not always practiced.

Some of the customs agents' shortcomings may be attributed to simple carelessness, laziness, or incompetence, deficiencies which royal officials on the scene tended to regard as relatively innocuous compared with the more venal behavior that some collectors and naval officers displayed. Commenting on a Maryland customs agent's signing off on forged certificates, Edward Randolph explained the oversight as a result of the man's being "honest though ignorant."²⁶ In 1699 Virginia governor Nicholson criticized the general laxity of customs officials only mildly with the observation that "As for the management of their offices I think they have not taken much pains in going on board and visiting ships at their coming in and

²⁵ "Gooch Correspondence," vol. 1, Gooch to the Board of Trade, July 23, 1730; Flippin, William Gooch, 14.

²⁶ CSPC, XIII, #2295, pp. 657-58.

clearing."²⁷ Robert Quarry's investigation of the Maryland customs service in 1703 revealed "severall mistakes, neglects and omissions" concerning which local officials promised to be "more diligent and careful for ye future."²⁸ And when Governor Spotswood proposed to the Commissioners of the Customs in 1711 the appointment of an additional customs agent he contended that "without such an Officer, or a greater Diligence in the Collectors, I cannot see how illegal Trade can be prevented . . . especially in that Lower District of James River, where the weakness, as well as the negligence of the Collector gives too great encouragement to practise upon him."²⁹

Often the distinction between simple negligence and active corruption is as difficult for modern analysts to discern as it was for royal officials to establish. When, for example, Thomas Miller alleged in 1680 that the former collector, a Mr. Birde, had "suffred many Vessells to goe away wthout paieing y^e Kings duty," it is impossible to know, without further explanation, what role Birde actually played in those instances of customs fraud.³⁰ Clearly, there were times when loyal crown agents could not determine the extent to which local officials were responsible for

²⁷ Ibid., XVII, #579, p. 312.

²⁸ Ibid., XXI, #1150 ii, p. 737.

²⁹ Spotswood, Letters, I, 76.

³⁰ CRNC, I, 265.

customs violations known to have occurred in their districts. Even Edward Randolph sometimes had trouble distinguishing between "The Ignorance remissions or Connivance of the Collectors" as the cause of their failing to recognize counterfeit certificates; taking security from "persons of Small or no Estates;" permitting ships "to load in any River or Creek 50 or 100 Miles distant from their Offices;" allowing Scottish and Irish vessels to trade in the colonies; failing to prosecute shipmasters upon forfeiture of their bonds; accepting bribes; and charging inflated or unauthorized fees.³¹ On other occasions royal officials lacked the hard evidence to confirm what they strongly suspected. Unable to prove what he firmly believed was a case of bribery involving a Virginia collector, Governor Spotswood had to content himself with rhetorically asking crown authorities "whether any interpretation" could excuse the customs agent from, at the very least, "the Accusation of Supine Negligence."³²

One chronic subject of complaint in which the motives of the perpetrators were frequently called into question concerned the inability or unwillingness of collectors to maintain adequate records or, in some cases, their refusal to produce any accounts whatsoever. Having requested to review the books of Patuxent River district collector George

³¹ Randolph, Letters, V, 117-19.

³² Spotswood, Letters, II, 105.

Plater in 1692, Edward Randolph was shown "a foul entry of some vessels made with him . . . , but in no regular method."³³ The same year Randolph encountered reluctance on the part of collector Nehemiah Blakiston to allow the surveyor general to examine the account books for the North Potomac district.³⁴ When Randolph finally did gain access to Blakiston's papers, he found them "all in as great confusion as you can think of." The collector had provided "no account of any money due to their Ma^ties nor," according to Randolph, had he done so "for many years."³⁵

Although Blakiston certainly had given the appearance of doing his best to uphold the royal prerogative against the intrigues of Lord Baltimore's supporters in the aftermath of the Rousby affair, the collector's own performance failed to withstand the scrutiny of other royal watchdogs. Further investigation revealed that Blakiston had been in arrears to the king for all the Plantation Duties he had collected for the previous seven years, amounting to over L1000.³⁶ Ironically, it was Blakiston who had taken it upon himself to inform crown officials in 1685 that the king was losing thousands of pounds of customs

³³ CSPC, XIII, #2295, p. 657.

³⁴ Randolph, Letters, VII, 357.

³⁵ Ibid., 397.

³⁶ Ibid., 424, 448, 457, 466; CSPC, XIV, #1511, p. 399; Hall, Edward Randolph, 149.

revenue annually due to the "obstruction and confusion of his affairs" in Maryland.³⁷

By 1694 English merchants trading to Virginia and Maryland had become so skeptical of the abilities and integrity of Chesapeake collectors in general that they convinced royal authorities to order colonial governors to hire "skilful commanders" to inspect the books of local collectors as well as cruise against contraband trade.³⁸ But even that initiative failed to solve the problem. In 1699 the collector for the Lower James River district reported that he had been unable to obtain the books and papers belonging to his office from his predecessors.³⁹ And, in addition to the questionable performance of those responsible for the collection of the two shilling per hogshead duty, contemporary Virginia chroniclers Henry Hartwell, James Blair, and Edward Chilton reported in 1697 that "The Collectors of the Penny per Pound likewise are very remiss in laying their Accompts before the Governors of the College . . . so that illegal Trade is carry'd on, and

³⁷ CSPC, XIV, #1005 I, p. 279, #1139 I, p. 308, #1510, p. 399.

³⁸ Ibid., XII, #136, p. 31.

³⁹ Ibid., XVII, #242, p. 293.

some of these Gentlemen refuse to give any account upon Oath."⁴⁰

Such difficulties were symptomatic of a problem which appears to have been endemic to the colony's administration. In 1698 Benjamin Harrison reported, with specific reference to the collection of customs revenues, that "All the public accounts . . . are kept very secret from the sight of everybody but themselves, so that it must be an extraordinary accident if any abuses are discovered."⁴¹ Similar accounting irregularities continued to be a source of consternation for royal officials in the next century. When Governor Spotswood attempted to satisfy the Virginia Assembly in 1712 that the revenues from the two shilling per hogshead duty had fallen short of government expenditures, he discovered that "no such Books had been kept thereof as were proper to be delivered to the House of Burgesses for their Inspection."⁴² And when the governor tried to institute measures to redress the inadequacy of the existing record keeping system, he "perceived the officers of the Revenue to be so utterly averse to alterations, and so tenacious of their dark and idle method of keeping Accompts," that he considered "any further Reform to be a

⁴⁰ Henry Hartwell, James Blair, and Edward Chilton, The Present State of Virginia, and the College, Hunter D. Farish, ed. (Williamsburg, Virginia, 1940), 71-72.

⁴¹ CSPC, XVI, #656, p. 331.

⁴² Spotswood, Letters, II, 176-77.

Work too difficult" for him to undertake solely on the strength of his own authority.⁴³

Although royal officials did not always say so explicitly, such instances of manifest incompetence and lack of cooperation on the part of colonial customs agents invariably raised suspicions of more intentional wrongdoing. In 1693 customs agents in Barbados complained to the Commissioners of the Customs that vessels arriving with cargoes of tobacco from Maryland and Virginia were producing certificates which recorded the number, but not the weight, of hogsheads and parcels for which payment of the penny per pound duty had been made, "thereby rendring the said Officers incapable to Discover any fraud . . . in the short payment of the said . . . Duty." In this instance, the commissioners declined to speculate on the motives of the collectors involved, opting instead to instruct the governor of Maryland to insure that customs officials not certify any greater quantity of tobacco than that for which the duty had first been paid and to make certain that the certificates indicated not only the number of hogsheads, but also "the exact Weight thereof."⁴⁴

Royal officials like Randolph, Nicholson, and Spotswood understood that innocent bookkeeping errors might explain critical omissions or discrepancies between two accounts of

⁴³ Ibid., II, 179-80.

⁴⁴ Md. A., XX, 125.

the same transaction, but conscientious crown agents also realized that such mistakes could be used to disguise, or provide convenient alibis for, intentional customs fraud. A crown official's willingness to accept such miscues as honest errors often depended on the past performance of the customs agent in question. A mistake considered in the context of numerous other allegations of impropriety on the part of the same collector or naval officer was certain to raise suspicion.

Thus when Edward Randolph detected a discrepancy between Nehemiah Blakiston's account indicating that he had collected the king's duty on 18 hogsheads of tobacco and another official's list showing that the duty had been paid on 80, the surveyor general was not inclined to attribute the disparity to a simple oversight.⁴⁵ Similarly, Alexander Spotswood refused to accept lower James River district collector Richard's Fitzwilliam's accounting of the tobacco duty revenues in 1719 not just because it was "only Gen'll as to the Quantity of Tobacco Exported in each Vessel, without Specifying the Marks, Numbers, and Contents of each Cask, as is Customary w'th the other Officers," but also because the governor had "some Intimation" that Fitzwilliam might not provide him with a "true Acco't, . . . having made some former Discovery of other irregular

⁴⁵ Randolph, Letters, V, 232.

practices in the Execution of his Office."⁴⁶

Acknowledging that bookkeeping inaccuracies did not always signify "wilful Errors," Spotswood nevertheless insisted that Fitzwilliam's behavior could be viewed as "no other than a designed fraud."⁴⁷

Unfortunately, as far as English authorities and sometimes even the colonists were concerned, colonial customs officials did not confine their indiscretions to manipulating account ledgers. Investigations of charges of impropriety not infrequently uncovered evidence of rampant corruption and abuse of power as well. In 1680 twelve North Carolinians gave depositions to the effect that Robert Houlden, the crown-appointed collector sent to restore order to the king's customs in the aftermath of the Culpeper Rebellion, had committed a variety of offenses related to the embezzlement of government property. The most serious infraction from the standpoint of the colony's security (and the one which appears to have given rise to many of the others) was Houlden's conversion "to his owne use" of a major portion of the colony's store of powder and shot with the result "that when the Cuntrey was in feare of a warr with the Indians there was noe ammunition . . . to be gott out of the Magazine."⁴⁸

⁴⁶ Spotswood, Letters, II, 326.

⁴⁷ Ibid., 328.

⁴⁸ NCHCR, 1697-1701, 417.

Houlden then took possession and authorized the shipment of several hogsheads of tobacco containing "much bryers grasse and weeds . . . and much Rottenesse," causing one deponent to wonder "what a Devill made Mr. Holden send this rotten tobacco for . . . the King."⁴⁹ The answer, of course, was that the collector was trying to make up for the deficiency of customs revenues that he was skimming and repay the private supplier of the powder and shot. In the furtherance of these ends as well as the general fattening of his own pocketbook, Houlden paid no customs at all on at least one shipment of his own tobacco (amounting to over 8,000 pounds) while, at the same time, requiring other planters and shippers to pay an exorbitant duty of two pounds of tobacco for every pound shipped.⁵⁰

Those whom Houlden suspected of interfering with his operation he imprisoned, without bail, in close quarters where they were "forced to Eat drink lye and ease Nature" until, according to one deponent, they "were almost poysoned with the Noysom sent of our owne Excrements."⁵¹ To keep them in jail Houlden successfully intimidated members of the grand jury into finding the defendants guilty despite a complete absence of incriminating evidence.⁵² When the

⁴⁹ Ibid., 416, 418.

⁵⁰ Ibid., 417-19.

⁵¹ Ibid., 420.

⁵² Ibid., 421, 423.

authorities finally caught up with the predatory collector and took him into custody, Houlden, apparently fearing further revelations of wrongdoing, instructed a confederate to reinscribe with the British broad arrow six barrels of salt pork that the revenue agent previously had appropriated for himself.⁵³

Among cases of rapacity by customs officials Houlden's is exceptional only in terms of the utterly brazen character of his abuse of authority, the disastrous result of a virtually unrestricted latitude in action which probably could not have occurred under circumstances less chaotic than those which prevailed in North Carolina in the late 1670s. But customs officials in more settled times and better regulated colonies still managed to make the most of their more limited opportunities. In 1688 fellow colonists became so disaffected with the behavior of John Custis, the collector for Virginia's Eastern Shore, that the House of Burgesses' Committee of Propositions and Grievances charged him with "extorting . . . unjust & unreasonable fees from Masters Merchants and traders there to the great decay of their trade & discouragmt of Navigation." So injurious was Custis' avarice to the commerce of the region that, according to the committee's complaint, "Masters and

⁵³ Ibid., 414.

Merchants who formrly traded in those parts have wholly deserted the place."⁵⁴

What punitive measures the burgesses undertook, if any, are not recorded, but they could not have been very severe because by 1692 Custis not only retained the office of collector, but also had become the naval officer for his district.⁵⁵ At that time the Council of Virginia reprimanded him for allowing a ship to conduct illegal trade, disobeying the council's direct order not to clear the vessel, and for "tampering with and Endeavouring to discourage the Evidences" against the illicit trader.⁵⁶ Edward Randolph added that, far from being an atypical case, the customs agent had abused his charge repeatedly,

⁵⁴ JHB, 1659/60-1693, p. 314.

⁵⁵ EJC, I, 223.

⁵⁶ Ibid., 227; CSPC, XIII, #2199, p. 629. A peculiar series of events preceded these latest allegations. On April 15 the council considered Custis's petition to be relieved from his various official duties on account of age and infirmity. Responding to Governor Nicholson's solicitation of advice in the matter, members of the council offered their opinion, completely disregarding the custom agent's tarnished performance record, that "the said Custis had all along faithfully and diligently discharged his Duty in the Severall . . . Offices he had been Honord with." Council minutes for the following day indicate that a bond was then prepared "to save the . . . Gov^r harmless from any damage should accrue to him by reason of his appointing the said Custis Navall officer and Collectr of their Ma^s Customes at the Eastern Shore" (EJC, I, 222-23). At the next meeting of the executive body on April 26, governor and council considered the tampering and collusion charges which, despite the unqualified commendation of Custis barely ten days earlier, the colonial officials seemed unanimously inclined to believe (Ibid., 227).

permitting anyone, "even pyrates," to trade in his district provided that they paid his "Unreasonable fees."⁵⁷ When Custis refused to appear before the council to answer the charges against him, he was suspended from all his offices, both "Civil and Military," but there is no indication that he ever was required to serve jail time or pay any fines for his transgressions.⁵⁸

Custis was hardly the only customs officer in the region to abuse his authority in the waning years of the seventeenth century. In 1692 Edward Randolph sarcastically referred to "upright Nehemiah Blackstone [Blakiston]," collector for the North Potomac district in Maryland, who, the surveyor general charged, was "used to squeeze what he pleases out of the Masters."⁵⁹ Five years later the Council of Maryland decreed that Major John Thompson, naval officer of Cecil County, "be dismiss from further Acting in that Station, Complaints being made of Severall Irregularities by him committed . . . to the great damage and injury of Severall persons therein concerned."⁶⁰ Typically, though Thompson was no longer permitted to enter or clear ships, he still collected the ten percent duty on

⁵⁷ CSPC, XIII, #2295, p. 656; Randolph, Letters, VII, 367-68.

⁵⁸ EJC, I, 247-48; CSPC, XIII, #2284, p. 654.

⁵⁹ Randolph, Letters, VII, 378.

⁶⁰ Md. A., XXIII, 166, 255-56.

European goods transported overland to Pennsylvania and was allowed to retain his position as a provincial judge.⁶¹ In 1698 Benjamin Harrison identified the "exorbitant fees" charged by customs officers as one of the principal impediments to the profitable conduct of trade in Virginia.⁶² The following year the Virginia assembly, responding to complaints that naval officers were exacting fees up to two and a half times more than those permitted by law, passed legislation requiring the customs officials to post their legally authorized rates.⁶³

Similar infractions continued to be recorded from time to time in the next century. In 1705 a large group of Eastern Shore residents and merchants submitted a petition to Virginia authorities complaining about having to pay an unwarranted fee due to "ye Avarice & Illegal, and Oppressive Practices, of Some officers . . . who have Extorted Itt from Sundry Inhabitants and Traders from Maryland."⁶⁴ Two years earlier Robert Quarry had reported disparagingly of David Kennedy, "Collector of Potomock District" in Maryland, that absence without leave was "the least part" of his

⁶¹ Ibid., 256, 257, 258.

⁶² CSPC, XVI, #656, p. 332.

⁶³ Hartwell, Blair, and Chilton, Present State of Virginia, 34-35; Hening, Statutes, III, 195-97; Flippin, Financial Administration of Virginia, 32; Gill, "The Naval Office in Virginia," 22.

⁶⁴ VMHB, XVI, 74.

alleged misconduct, "for the crime laid to his charge is no less than forgery and cheat."⁶⁵ In the same dispatch to English customs authorities, the surveyor general portrayed George Luke, collector for the lower James River district, as having "lived so scandalously" in Virginia as to make himself "ye scorn and contempt of ye meanest in this country." Luke was absent at the time, having "left ye office in . . . confusion" when he departed for England without Governor Nicholson's permission. Quarry's examination of the district's account books led him to declare that he "never saw anything more irregular and confused."⁶⁶

Although Quarry could hardly have condemned Luke in stronger terms, whatever damage he caused to the local agent's reputation evidently had little impact on his career. In 1711 Luke was still serving in the same capacity when Governor Spotswood informed the Commissioners of the Customs that he could not be held responsible for trade law enforcement in the Lower James River district as long as Luke continued to serve as collector there. At first the governor believed that "the many miscarriages" which had occurred in the district, including Luke's allowing vessels to clear without giving bond or paying customs, were simply due to the collector's "incapacity and negligence." But

⁶⁵ CSPC, XXI, #1150 ii, p. 737.

⁶⁶ Ibid., p. 738.

Spotswood began to suspect that a more self-serving motive was involved when Luke harassed a fair trader, insisting "very sturdily to have the Ship brought to a Tryal" while, at the same time, according to the shipmaster, having the "cuning to propose ways and means to discharge the Ship without it, if the Master had consented."⁶⁷

Five months later Spotswood informed the commissioners that, although Luke had received more than L200 of the penny per pound duty over the course of the year, he could not pay "one farthing when the College Receiver demanded it . . . besides a considerable Arrier in his former accounts, which they are never like to receive."⁶⁸ The last straw for Spotswood came in 1715 when Luke deliberately disregarded the governor's orders strictly limiting the sale of cargo from a French ship which had put into a Virginia port for repairs. Informing royal customs officials of Luke's suspension, Spotswood intimated that the collector had been paid off and that his refusal to take an oath in vice-admiralty court in his own defense "must occasion shrewd suspicions of his Integrity."⁶⁹

Unfortunately for the governor, his troubles with the lower James district did not end with Luke's dismissal in

⁶⁷ Spotswood, Letters, I, 77.

⁶⁸ Ibid., I, 113.

⁶⁹ Ibid., II, 105; CSPC, XXVIII, #320, p. 139; #483 i, p. 211.

1715. Four years later Spotswood concluded that, much like Luke, collector Richard Fitzwilliam was a "greater disturber of fair Traders than a discourager of illegal ones." Suspicious of Fitzwilliam's lack of precision in reporting customs revenues and his refusal, upon request, to submit a more detailed record, Spotswood alleged that on at least two occasions the collector had, "according to his own Acco't, sunk in his own pocket" duties paid on a combined total of over 2400 pounds of tobacco. The governor further charged that, in the case of a naval officer's seizure of a vessel for violating the trade laws, Fitzwilliam had opposed the crown's interest out of sheer spite. Upon learning that, as collector, he would not be entitled to a percentage of the proceeds of the condemnation, Fitzwilliam "took upon him the Office of an Evidence against the King, and without being called offered his testimony to clear that Vessel."⁷⁰

The catalog of alleged improprieties continued. Spotswood additionally accused the customs agent of underhanded dealings in granting the purser of the royal warship Pearl a "Bill of Store," prohibited by the Acts of Trade for enumerated commodities, to buy a shipment of Fitzwilliam's own tobacco without paying any customs fees. In exchange for the duty-free purchase, the purser agreed to buy the tobacco, according to the governor, "at a higher

⁷⁰ Spotswood, Letters, II, 327-28.

price than was then commonly sold."⁷¹ If the allegation was true, it would seem particularly ironic that Fitzwilliam, who allegedly dealt with Blackbeard also, was involved simultaneously in a contraband trade which used as its vehicle the ship whose crew was responsible for the pirate's destruction. What is even more startling (and, ultimately, revealing) about Fitzwilliam's case is that, despite Spotswood's long list of charges and the governor's claim that "all the Neighboring People in that District murmur exceedingly at the unnecessary trouble and vexation he gives them," the opportunistic collector not only retained his post but went on to become surveyor general of the customs for the southern colonies and eventually governor of the Bahamas.⁷²

Although Fitzwilliam's purported association with freebooters does not appear to have affected his professional standing, pirates, or at least the mishandling of pirate loot, may have figured in the downfall of another Virginia customs official. Henry Irwin was a naval officer for the lower James River district who "had at sundry times received considerable sums of money" which represented the confiscated booty of pirates captured in Virginia in 1719. By 1721, according to Elizabeth City County records, Irwin

⁷¹ Ibid., 328.

⁷² Ibid.; Andrews, Colonial Period of American History, IV, 202 n. 3.

stood "indebted to the King in the sum of 450L . . . for so much of the said piratical effects by him received & yet unpaid & unsatisfied."⁷³ The naval officer did convey to the king as payment the deed for several lots he owned in Hampton, but his reputation for honesty, or at least prudent fiscal management, appears to have suffered irreparable damage. At a council meeting in 1726 the governor announced that Irwin had been discharged from his customs post because "no man would be bound for him."⁷⁴

Cupidity on the part of customs agents and other government officials in the maritime sphere continued to afflict the colonial administrative system of the region in the succeeding decades. Wartime privateering, which traditionally had not been pursued in the greater Chesapeake for lack of ships and ready capital, was further discouraged during the War of Jenkins' Ear by prize commissioners who sought to exploit the situation for their own economic benefit. In 1739 William Byrd II wrote to British minister Robert Walpole that enterprising privateersmen from Virginia had been "plagued with a vexatious attendance and most

⁷³ VMHB, X, 216.

⁷⁴ Ibid.; EJC, IV, 99. Irwin was appointed naval officer of the lower James district in 1716 to succeed John Holloway (EJC, III, 428).

exorbitant Fees to the Vultures which hovered for prey about the Office."⁷⁵

While the phenomenon of greedy prize commissioners might be dismissed as indicative of nothing more than the predictable emergence of wartime profiteering, additional reports of avidity on the part of customs and other regulatory authorities suggest a continuing pattern of official corruption in the maritime commercial sphere of the greater Chesapeake. In 1730 North Carolina advocate general Richard Everard brought a series of suits against John Lovick, former deputy secretary of the province, for Lovick's alleged failure to account for proceeds from the sales of four ships condemned for contraband trafficking and other trade law violations. Everard charged that Lovick, who had acted in each case either as the presiding judge or the agent in charge of the sale, could not produce the missing revenues because he had "Appropriated, and . . . converted the same to his own Use & Benefit."⁷⁶

⁷⁵ VMHB, XXXVI, 357; Middleton, Tobacco Coast, 456, n. 16.

⁷⁶ N.C. St. Arch., CCR 142, doc. nos. 23, 24, 26, and 27. The suits against Lovick are also noteworthy because they appear to contain the only references to the trade law violations that are mentioned therein. Had it not been for Lovick's indiscretions, these cases may never have come to light, suggesting that even in colonies and for periods where records have been preserved, the actual number of cases involving illicit trade may far exceed the number that have been documented.

Two years later the North Carolina vice-admiralty court ordered collector and former vice-admiralty court judge Samuel Swann to give an account of a piragua he had seized for illegally exporting enumerated goods.⁷⁷ Although nearly a year had elapsed since the seizure, Swann had failed to initiate any condemnation or prosecution procedures and, on the contrary, the court charged, had employed the vessel in his own service.⁷⁸ Despite the issuance of several subpoenas, Swann refused to appear before the tribunal. Instead he attempted to transfer jurisdiction in the case from the vice-admiralty court to the general court where he undoubtedly expected a more sympathetic hearing, apparently with more than the usual good reason.⁷⁹ Vice-admiralty court records indicate that the colony's advocate general, the man most likely to handle any government proceedings against Swann in the general court, not only was aware of the collector's misconduct, but had purposely neglected it, and in fact had refused to prosecute the case.⁸⁰

Even before the specific allegations of Swann's malfeasance surfaced, colonial authorities had grown uneasy

⁷⁷ N.C. St. Arch., CCR 142, doc. no. 43; CRNC, II, 766; Andrews, Colonial Period of American History, IV, 209 n. 1.

⁷⁸ N.C. St. Arch., CCR 142, doc. no. 45.

⁷⁹ Ibid., doc. nos. 45, 50, 51.

⁸⁰ Ibid., doc. no. 47.

about reports of more widespread impropriety on the part of customs officers. In 1731 the North Carolina Lower House resolved to ask the governor to issue a proclamation "strictly forbidding all officers to take larger Fees than is by Law appointed."⁸¹ What prompted the request were "Complaints made in most parts of this Province" that the extortionate behavior of local customs officials had resulted in "the great Discouragement of the Trade . . . and the Oppression of the People."⁸²

Specifically, the assemblymen charged that collectors "in General do demand take and receive from the Inhabitants and Masters of Vessells . . . Four times more than the Fees appointed by the Laws of this Province."⁸³ Abuse of the established fee structure was cited again in 1746 when the North Carolina Committee of Propositions and Grievances reported that customs officials "under the colour of their Office," had exacted "new Fees not warranted by Law, & . . . extorted greater Fees than allowed by Law." As was the case

⁸¹ CRNC, III, vii-viii.

⁸² Ibid., vii-viii, 262, 267, 269. The alleged abuses of a vice-admiralty judge in this regard also may have been instrumental in persuading North Carolina legislators to initiate some remedial action at this particular time. As part of his running legal battle with Edmond Porter in 1731, William Little complained that "altho the admiralty fees are here stated by Law and verry high too," the vice-admiralty judge nevertheless "Arbitrarily asumed to Impose what costs he pleases and hath Constantly Done it in a very Exorbitant manner" (CRNC, III, 231-32).

⁸³ CRNC, III, vii-viii, 262.

fifteen years earlier, the legislators' concern stemmed from the conviction that such infractions were neither isolated nor petty, but constituted a general "Oppression of the subjects and a very great grievance."⁸⁴

Allegations of official misconduct in regulating the maritime commerce of the Chesapeake were not restricted to the British customs service per se. The establishment of the tobacco inspection system in Virginia in 1730 spawned complaints about a new form of official corruption, namely, discrimination in judging which or, more accurately, whose tobacco was fit for export.⁸⁵ Several planters reportedly were "ready to strike" Corotoman inspector Joseph Carter in 1732 for what they considered "very Partial and unjust" conduct, the examiner allegedly having "passed very bad Tobacco for some people" while condemning the good tobacco of others to be destroyed.⁸⁶ Unhappy residents of Caroline County raised similar objections in 1742 when they accused inspector William Alcocke of being "guilty of Partiality" in passing one man's tobacco "when he refused to pass the same sort" for another.⁸⁷

⁸⁴ Ibid., IV, 824.

⁸⁵ EJC, IV, 305-43; Horne, "Tobacco Inspection Act," 67, 103-04.

⁸⁶ CVSP, I, 218-19.

⁸⁷ Ibid., 236.

The Council of Virginia, as it turned out, dismissed the charges against Carter as groundless, a ruling which could be construed to signify simply that the operation of any inspection system involving a degree of subjective judgment in maintaining a prescribed, but necessarily inexact, standard was bound to result in unfounded complaints of bias or poor discretion.⁸⁸ On the other hand, the fact that eighteen inspectors were discharged for "Misbehavior" and "Neglect of Duty" in less than two months toward the end of 1733 (as well as others in succeeding years) has been viewed as an indication that wealthy planters were attempting to exercise an undue influence on the inspectors at the expense of their poorer counterparts.⁸⁹ In an effort to discourage such behavior, the Virginia assembly passed legislation in 1738 preventing tobacco inspectors from serving as collectors of any public levies and an additional statute in 1742 forbidding inspectors to accept any gift or gratuity apart from their salaries.⁹⁰

The customs agents guilty of corruption in the instances of official impropriety cited thus far all shared

⁸⁸ EJC, IV, 287-88, 293.

⁸⁹ Ibid., 307-08, 310-11, 315, 335, 338, 426, 431, 436, 437; Horne, "Tobacco Inspection Act," 67.

⁹⁰ Hening, Statutes, V, 11, 151; Flippin, William Gooch, 22.

two characteristics in common: a determination to exploit the system, whether conceived in London or the Chesapeake, and a willingness to extort or otherwise abuse merchants and fellow colonists in the process. In many cases they also displayed an arrogant and blatant disregard for the ability of local authorities to discipline them. But not all the corruption of colonial customs officials was practiced so overtly or at other colonists' direct expense. In fact, most customs fraud in which collectors and naval officers knowingly participated seems to have been conducted for the mutual benefit of revenue officials and colonists or shippers alike. The fact that few specific instances of cooperative, bilateral corruption were documented should be viewed not as an indication that such collusion was practiced less regularly, but rather that many more people stood to gain than lose by its perpetuation and concealment. Clearly, had it not been for the indiscretion of greedy, exclusively self-indulgent customs agents in alienating traders and local residents and openly defying lawful authority, it is unlikely that most of these cases of official corruption would ever have come to light.

Collusion with collectors and naval officers offered colonists and shipmasters certain advantages over other forms of smuggling and customs fraud. Although forging certificates and cocquets, loading vessels after clearing, and complete evasion of customs authorities were all

effective ways to beat or circumvent the system, they also had certain drawbacks. Counterfeit papers and contraband cargo were liable to detection and there was always the possibility, however remote, that clandestine loading might be discovered by a royal guardship, either through direct observation or by means of an informer. Of equal or perhaps greater concern was the inconvenience and expense associated with the acquisition of false papers, the concealment of smuggled goods, and having to load a vessel twice and in secret. How much simpler and less risky the operation could be for potential trade law violators if they could gain the cooperation of the local naval officer and collector (particularly if those posts were held by the same individual, as they often were before 1700) by means of a suitable inducement.

In 1691 deponent John Twitt testified that Maryland collectors had permitted the shipment of £3000 worth of goods directly from Holland, presumably, according to local speculation, as a result of having been suborned.⁹¹ Seven years later Benjamin Harrison charged that Rappahannock district collector Ralph Wormeley had "used his interests" as well as "ill language and menaces" to secure the release of two vessels seized for lack of proper papers, arousing popular suspicion that "the ships had been let go for

⁹¹ CSPC, XIII, #1951, p. 578.

bribes."⁹² Governor Spotswood levelled similar charges against collector George Luke in 1714 in connection with the disposition of goods from a disabled French ship.⁹³ In 1731 a North Carolina deponent reported that a local collector had seized a cargo of imported goods for which the ship's captain could produce no coquets, but "told the master he would pass the matter by for a piece of Calico."⁹⁴ These, however, represent practically the only alleged instances of direct cash or commodity payments to customs officials in exchange for extralegal services. Proven, documented examples are even rarer. And yet, Virginia authorities considered the problem serious enough to warrant the passage of legislation in 1726 and again in 1732 stipulating that collectors who accepted bribes and shipmasters who offered them would be fined L100 each.⁹⁵

What concerned colonial authorities probably was not so much the occasional unauthorized release of a seizure or the even rarer occurrence of illicit cargo disposition from an incapacitated foreign ship, but the practice of less conspicuous collusion on a more regular basis. One form that such collusion commonly took, according to Edward

⁹² Ibid., XVI, #656, p. 332.

⁹³ Spotswood, Letters, II, 105.

⁹⁴ CRNC, III, 227.

⁹⁵ Hening, Statutes, V, 146, 313-14; Flippin, Financial Administration of Virginia, 46.

Randolph, was that collectors who were also great planters routinely offered shipmasters a sizable discount on tobacco duties provided that the captains agreed to purchase their entire lading from the customs agents.⁹⁶ The collectors then could effect the transaction either by remitting part of their share of the duties or by overlooking the shippers' bookkeeping chicanery, "Sometymes," as Randolph indicated, "Coniveing at their short Entries."⁹⁷

Much of this type of customs fraud stemmed from the fact that collectors and naval officers frequently had a significant personal interest in the commerce that they were supposed to be regulating, a situation which some crown officials regarded as inherently and profoundly injurious to the royal interest. Maryland governor Nicholson, for instance, considered customs officials "being great traders . . . to be one of the great causes of illegal trade."⁹⁸ Although royal instructions to the governors from 1700 on stipulated that "persons much concerned in trade" not be permitted to serve as collectors, some venal customs agents nonetheless sought to use their positions to gain a

⁹⁶ CSPC, XVIII, #906, p. 634; Randolph, Letters, V, 232.

⁹⁷ Randolph, Letters, V, 232.

⁹⁸ CSPC, XV, #1178, p. 548.

competitive commercial edge over fellow merchants and planters.⁹⁹

In 1711 Governor Spotswood removed naval officer Gawin Corbin from office for "no less an offence than forging the . . . Queen's letter," a crown exemption from the requirement to sail with an authorized convoy during wartime, in order to clear a vessel of which he was a part owner.¹⁰⁰ The advantage Corbin hoped to gain, presumably, was to insure that his ship would reach the English market before the rest of the Chesapeake tobacco fleet and thereby be in a position to command a better price than his competitors. A similar situation developed in 1717 when eleven merchants complained to the Board of Trade that "contrary to the regulations forbidding officers of the Customs to trade, freight or own ships," Daniel McCarty, collector for the South Potomac district, was a "very great Trader not only for his own Acc^t but also . . . factor for . . . others" much to the detriment of rival business interests who were "sure . . . to be discourag'd harass'd hinder'd & embarrassed by him whose Commission affords him a pretext . . . for his many unwarrantable Practices."¹⁰¹

⁹⁹ Andrews, Colonial Period of American History, IV, 197, 208 n. 3.

¹⁰⁰ CSPC, XXX, #800, p. 429; Spotswood, Letters, I, 78; EJC, III, 269, 276; Bergstrom, "Merchants and Markets," 58-59; Dodson, Alexander Spotswood, 61 n. 87.

¹⁰¹ CO5/1318, pp. 91, 92; CSPC, XXIX, #643, p. 341; Dodson, Alexander Spotswood, 61 n. 84.

The obvious conflict of interest represented by customs officials' personal involvement in the commercial affairs that they were empowered to oversee was compounded by the phenomenon of plural officeholding. As Edward Randolph reported in 1695, some collectors were also "Traders having Offices of Trust and profit in the Government."¹⁰²

Virtually unrestricted for almost the entire seventeenth century, the ability of privileged individuals to gain additional wealth and power through the acquisition of public offices fostered the creation of what one historian has described as an "impregnable defense of corruption."¹⁰³ Contemporary observer Benjamin Harrison characterized the situation as one in which "the self same men, who have been naval officers to enter and clear ships and collectors to receive the public duties, have likewise hitherto been the Council of State to pass their own

¹⁰² Randolph, Letters, V, 117.

¹⁰³ Hall, Edward Randolph, 148. For an alternative view see Bergstrom, "Markets and Merchants," chapter 3 and pages 60-61 and 91 in particular, which portrays Virginia's plural officeholding naval officers as models of official behavior who performed their duties "conscientiously, honestly and faithfully," and took "just rewards, but no more" for their services. Bergstrom's assessment tends to disregard the documented or alleged malfeasance of John Custis, Gawin Corbin, and Ralph Wormeley; overlooks the many complaints that Virginia's naval officers were charging grossly excessive fees; and runs counter to the conviction of England's Lord Justices in 1698 that naval officers had "generally neglected to comply with the . . . Act . . . for preventing frauds & regulating Abuses in y^e Plantation Trade."

accounts and to advise the disposal of the money."¹⁰⁴
 Edward Randolph went so far as to charge that "the
 Collectors places in virginia" constituted little more than
 "perquisites . . . intended to enrich ye members of ye
 Councill" and functioned only secondarily "to secure their
 Ma^ties Revennue."¹⁰⁵

Toward the end of the century others began to criticize
 the privileged status of the councilors under the existing
 arrangement and a movement to reform the system gained
 momentum. In 1697 Maryland governor Nicholson suggested to
 English authorities that "Collectors and Naval Officers be
 distinct persons, so that they may be a check upon each
 other, and that neither of them be public traders."¹⁰⁶
 The following year the Board of Trade advised the Lords
 Justices of England that "The Collectors and Naval Officers
 have for years past been the same persons, and for the most
 part Councillors, doing their business principally through
 unsworn deputies and rendering their accounts to the
 Council, which is to themselves. The evils of this are
 evident and complaints have not been wanting."¹⁰⁷
 Finally, in 1699 royal instructions to the governors

¹⁰⁴ CSPC, XVI, #656, p. 330.

¹⁰⁵ Randolph, Letters, VII, 351.

¹⁰⁶ CSPC, XV, #1178, p. 548.

¹⁰⁷ Ibid., XVI, #767, p. 401.

expressly forbade councilors from holding the offices of collector or naval officer.¹⁰⁸

The next year Miles Cary, register of the vice-admiralty court, submitted what appears to have been an unprecedented petition to the Council of Virginia. Having recently been appointed naval officer of the York River and considering that it was not "suitable yt one and ye same person should be obliged to seize Ships and Vessells for Illegal traders and be a Party in ye tryall of them," Cary requested that he be discharged from the office of register.¹⁰⁹ Cary's offer to relinquish his office in the vice-admiralty court (which the recent royal directives did not require explicitly) points up the fact that customs officials not only enjoyed positions in the executive and legislative branches of colonial government, but in the judiciary as well. And while Cary's influence as register probably was relatively insignificant, those privileged to serve as judges not only decided the outcome of individual cases, but essentially determined the course of trade law enforcement in their colony.

The potential for abuse under such circumstances was manifest. As Hartwell, Blair, and Chilton observed, "The multitude of Places held by the Council, occasions great

¹⁰⁸ Ibid., XVII, #579, p. 312; JHB, 1698-99, p. 185; Hartwell, Blair, and Chilton, Present State of Virginia, 59.

¹⁰⁹ EJC, II, 126; CSPC, XVIII, #1055, p. 766; Reese, ed., Virginia Vice-Admiralty Court, 57.

Confusion, especially in such things wherein the Places are incompatible: As when their Collectors Office obliges them to inform their Judges Office against an unfree Bottom; Or when their Honours, as Counsellors, sit upon and pass their own Accounts, as Collectors."¹¹⁰ Even that description did not define the full extent of their influence, Benjamin Harrison maintained, but "the same men also constitute the Supreme Court of Judicature in all causes whatsoever, so that there is no relief against any judgment they choose to give."¹¹¹

Predictably, the decisions these men made as councilors and jurists tended to favor their own interests, both individually and collectively. In 1694 Edward Randolph accused four Virginia general court judges, who also were collectors, of not aggressively and effectively prosecuting the case of a ship seized for illegal trading because "the truth of it is, their Brother collector Ralph Wormeleys Honour lay at stake, for if the vessel were condemned t'would argue either his Connivance at ye M^r or his ignorance in the Acts of trade because he did not seize her at the tyme of her Entry."¹¹² Several years later, Benjamin Harrison indicated that such behavior was

¹¹⁰ Hartwell, Blair, and Chilton, Present State of Virginia, 39.

¹¹¹ CSPC, XVI, #656, p. 330.

¹¹² Randolph, Letters, VII, 459.

consistent with the posture that powerful plural officeholders customarily assumed with regard to disciplining one another. "They will always look so carefully to their own interest as to stand by each other in opposition to all persons," Harrison asserted, "and if one of them chances to speak a little freely of the miscarriages of one of his brethren, . . . yet upon second thoughts they think it their common interest to agree among themselves and generally let such things sleep."¹¹³ In 1701 the Board of Trade acknowledged having received such complaints, noting that members of the Council of Virginia "were not subject to prosecution at law . . . and that . . . inconveniencies had ensued, as well in relation to trade as justice, by the methods settled, and ordinarily practised, in the administration of that government."¹¹⁴

The problem of multiple officeholding was, to a considerable degree, a systemic one. If customs agents, councilors, and judges took advantage of the system by occupying positions which represented conflicting interests, it was largely because the administrative framework of the Chesapeake colonies permitted them to do so. Few colonists could be expected to surrender such perquisites voluntarily, as Miles Cary did, for the sake of principle. English authorities eventually did attempt to take some

¹¹³ CSPC, XVI, #656, p. 330.

¹¹⁴ Stock, Debates, II, 396.

comprehensive action in this regard by issuing directives forbidding councilors to serve as customs agents, prohibiting the same person from holding both the collector's and naval officer's posts simultaneously, and specifying that those appointed to either position should not be too involved in trade personally.¹¹⁵ But the larger issue of plural officeholding never was resolved satisfactorily.

Part of the problem was that there simply were not enough qualified people in the colonies to assume all the positions of responsibility without calling on some individuals to perform more than one official function.¹¹⁶ The result, whether due to the consequent

¹¹⁵ CSPC, XVII, #579, p. 312; XVIII, #523, pp. 310-11; Spotswood, Letters, I, 8; Hening, Statutes, III, 195.

¹¹⁶ Andrews, Colonial Period of American History, IV, 182. An important aspect of the problem concerned education which reputedly had become "the sine qua non for holding public office" in Europe long before the colonial era (Martin H. Quitt, Virginia House of Burgesses 1660-1706: The Social, Educational, and Economic Bases of Political Power [New York, 1989], 104). In the Chesapeake, though, particularly during the seventeenth century, both literate individuals and opportunities for instruction were in short supply (Ibid., 106; John C. Rainbolt, From Prescription to Persuasion: Manipulation of Seventeenth Century Virginia Economy [Port Washington, N.Y., 1974], 21-22). Nevertheless, the significance of some sort of scholastic background as a qualification for public officeholding was illustrated in Bacon's Rebellion when the chief insurgent rhetorically asked whether the "extractions and Education" of Governor Berkeley's ruling faction had not "bin vile," and questioned "by what pretence of learning and vertue they could [enter] soe soon into Employments of so great Trust and consequence" (cited in Bernard Bailyn, "Politics and Social Structure in Virginia," in James K. Martin, ed., Interpreting Colonial America, 2d edition [New York, 1978],

conflicts of interest or the overburdening of public officials with too much responsibility, was, according to Edward Randolph, that "but few discharg one Office as they ought to doe."¹¹⁷ Another aspect of the dilemma which proved particularly troublesome was the almost uniformly insufficient salaries and commissions that customs agents and other public officials received as compensation for their efforts. An eighteenth-century New England official asserted that "the real cause of the illicit trade" in his colony was that customs officials were "quartered upon for more than their legal fees and that without bribery and corruption they must starve."¹¹⁸ The necessity for customs officials in America to supplement their meager incomes with emoluments from some other source has led several historians to conclude that graft must have been widespread and pervasive.¹¹⁹

By all accounts, the situation in the greater Chesapeake conformed to the same pattern, a phenomenon which illustrates why it was difficult to get honest, competent,

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¹¹⁷ Randolph, Letters, VII, 379.

¹¹⁸ Thomas Hutchinson in Andrews, Colonial Period of American History, IV, 215 n. 1.

¹¹⁹ Andrews, Colonial Period of American History, IV, 215; Dodson, Alexander Spotswood, 62; Hoon, English Customs Service, 213.

and conscientious individuals to serve as customs agents.¹²⁰ The refusal of Virginia's first customs collector to continue in his position after 1673, for example, has been attributed to the decision to change his form of compensation from a comfortable salary of £250 a year to a percentage of the duties he collected.¹²¹ In 1699 a Carolina collector indicated his unwillingness to serve in the same capacity any longer because of the large expenses he had incurred in prosecuting a case for which he had received no allowance or reimbursement.¹²² The same year Virginia governor Nicholson passed along to the Board of Trade a representation made to him by eight council members who were former collectors (including Benjamin Harrison) stating that the income customs agents derived from their offices was "unsuitable as compensations for their time and trouble."¹²³

Over a decade later the council still maintained that "the fees belonging to the Naval Officer alone would not be a sufficient encouragement for anyone that's capable and fitt to be in so great a trust" without a supplementary

¹²⁰ Bergstrom, "Merchants and Markets," 84-85.

¹²¹ Barrow, Trade and Empire, 21; Flippin, Financial Administration of Virginia, 23.

¹²² Randolph, Letters, V, 221..

¹²³ CSPC, XVII, #579 xxxi, p. 312.

income producing office.¹²⁴ When Governor Spotswood recommended to the Commissioners of the Customs the appointment of an additional customs agent to help control illicit trade in the Lower James River district, he emphasized the need to pay the official a "Compatent Sallery" so as not to be "tempted to supply his want . . . either by an unjust vexation of fair Traders, or a fraudulent Connivance with the illegal ones."¹²⁵ The quest for additional fees and commissions inevitably led to competition between customs officials which, Edward Randolph implied as early as 1692, also fostered collusion with planters and shippers. "In Maryland the Officers plye like Watermen," the surveyor general observed, "for he that uses the M^{rs} [shipmasters] best has most business."¹²⁶

The inadequate income that customs agents received from their offices was also used to justify the establishment of rates which planters and shippers considered exorbitant. In fact, it was as a result of complaints that collectors had "exacted and taken greate and unreasonable fees for entring and clearing ships" that the Virginia assembly enacted legislation in 1679 stipulating, apparently for the first time, what the charges for particular customs services

¹²⁴ Ibid., XXV, #349, pp. 169-70. The council had submitted a similar memorial in 1706 also (EJC, III, 117-18).

¹²⁵ Spotswood, Letters, I, 75.

¹²⁶ Randolph, Letters, VI, 43; VII, 379.

should be.¹²⁷ But when the North Carolina Lower House sent a resolution to Governor Burrington in 1731 condemning customs officials for charging excessive fees and insisting that these be regulated more strictly, the governor responded that adopting the proposed measures would leave collectors and naval officers no choice but to "Abandon their Employments and depart this Province or starve here if they take their Fees in the kind manner you prescribe or desire."¹²⁸

The negative consequences associated with insufficient salaries affected the highest level of colonial administration as well. Edward Randolph believed that "the many misdemeanors . . . justly charged upon the severall Governours in the Proprieties, arise chiefly from a very

¹²⁷ Hening, Statutes, II, 443-44. The fee structure for customs officials in the colonies does not appear to have been established by any imperial decree or act of Parliament; instead, the standard procedure, at least after 1679, evidently was for colonial assemblies to set the fees subject to approval by the Privy Council (Barrow, Trade and Empire, 155-56). Following the formal division of customs responsibilities between collectors and naval officers, the Virginia burgesses passed a law in 1699 detailing the fees that each agent would receive and specifying that "no collector or navall officer shall . . . after the publication of this act charge, demand, exact and take any more or greater fee . . . than what is hereafter particularly enumerated" (Hening, Statutes, III, 195-97).

¹²⁸ CRNC, III, 297-98, 309. North Carolina lawmakers had passed legislation in 1715 delineating collectors' fees and services (Ibid., XXIII, 83). A similar law was enacted in 1731, after the Lower House's resolution, which additionally detailed the functions and prescribed service charges for naval officers (Ibid., III, 160-61). These were subsequently amended for both officials in 1736 (Ibid., IV, 195-96).

great neglect in the Proprietrs not taking due care to provide an Honorable Maintenance for support of their Governors." This, the royal customs agent was convinced, was "the true reason why no honest Gentleman of good reputation and abilities . . . will leave his Country to live upon the Rapine and spoil in the Proprieties, as many of them have done . . . For 'tis easy to believe that Governors in such necessities will be soon tempted to do all unlawful things."¹²⁹

Bureaucratic inefficiency paralleled and complicated the problems of plural officeholding and inadequate salaries. Although crown authorities appeared to have worked out the responsibilities of, and the division of labor between, customs officers clearly and carefully in theory, in practice the system was full of ambiguities and contradictions. An exchange of correspondence between English officials and Francis Nicholson illustrates the confusion that prevailed at the highest levels of colonial administration where communication and mutual comprehension should have been most lucid. As governor of Maryland in 1697, Nicholson had been one of the foremost proponents of making collectors and naval officers "distinct persons" who would act as a check on one another. Two years later, though, Nicholson, now governor of Virginia, inexplicably

¹²⁹ Ibid., I, 545; V, 157, 271; CSPC, XVI, #451, p. 211.

reversed himself by recommending that the two positions be combined "for the conveniency of trade and the proper reward of the officer."¹³⁰

Flabbergasted members of the Board of Trade, who had heeded the governor's advice in the first place, responded: "We do not conceive how you came to appoint the same persons to execute both the Naval Office and that of Collector of the 2s. per hhd., that being directly contrary to your Instructions and also to your own opinion, which you writ us from Maryland."¹³¹ Nicholson lamely tried to explain that the position he had joined to that of naval officer was not that "collector, but the Receiver of the 2s. per hhd. and the Virginia duties, . . . sometimes called collector."¹³² Perhaps in an effort to deflect attention from his own apparent confusion or inconsistency, the governor pointed out another glaring administrative oversight, that "few of the Collectors and Naval Officers" had received "any body of Instructions" to guide them in the performance of their duties.¹³³

Other deficiencies of the system, on both the imperial policymaking and colonial administrative levels, produced additional problems or exacerbated existing ones. The

¹³⁰ CSPC, XVII, #579, p. 312.

¹³¹ Ibid., XVIII, #8, p. 5.

¹³² Ibid., #523, p. 311.

¹³³ Ibid., #523, p. 310.

absence of designated shipping and receiving centers combined with the innumerable bays, inlets, rivers and creeks in the greater Chesapeake created a situation in which complete, or even moderately effective, coverage of the various customs districts would have been impossible in any event. But the relatively small number of customs officials assigned to those areas only served to compound the dilemma.

In 1700 Edward Randolph complained about the ease with which Virginians and North Carolinians ran their uncustomed tobacco to New England from the Currituck Inlet area "where there is no settled Officer of the Customes."¹³⁴ Three and four decades later Virginia governor Gooch continued to observe that illicit trade could not be prevented as long as smugglers had virtually unlimited opportunities to collect and dispose of contraband far from the prying eyes of royal customs agents.¹³⁵ Even the establishment of port towns, unless they were situated properly, did not improve trade law enforcement necessarily. In 1755 North Carolina governor Arthur Dobbs requested that the Board of Trade appoint a revenue officer for Ocracoke Inlet because "the Sound within is so large with many numerous Navigable Creeks" that smugglers were able to unload a "great part of

¹³⁴ Randolph, Letters, V, 231.

¹³⁵ "Gooch Correspondence," vol. 1, Gooch to the Board of Trade, July 23, 1730 and vol. 3, Gooch to the Board of Trade, August 22, 1743; Flippin, William Gooch, 14.

their Cargoes . . . and all prohibited Goods before they come to the discharging Ports and by landing them . . . Swear only to the remainder of their Cargoe."¹³⁶

The remoteness of many customs officials' residences from the areas of greatest shipping activity within their districts offered additional opportunities for illicit trade and duty fraud. In 1697 Hartwell, Blair, and Chilton suggested that customs revenues "would turn to better Account if . . . the Collectors kept their Offices convenient. Many of them do now live at great Distance, and trust to unsworn Deputies, and they to unsworn Masters of Ships, and other Exporters."¹³⁷ A quarter century later the president and masters of the College of William and Mary lamented the loss of income to the institution as a result of diminished Plantation Duty revenues which they attributed in part to the fact that customs "offices are given to men that live out of the country, and so never reside as to do their duty, which has occasioned vast frauds in that trade."¹³⁸ In 1736 former North Carolina governor Burrington apprized the Commissioners of the Customs that he "never knew one of the Collectors of Currituck [to] reside within the Collection." And since, Burrington noted, "there

¹³⁶ CRNC, v, 333.

¹³⁷ Hartwell, Blair, and Chilton, Present State of Virginia, 60.

¹³⁸ Perry, Church Papers, 549.

are many Islands and Rivers between . . . where the Collectors reside and the Inlets, . . . the Masters have Opportunitys to unload prohibited Goods, before they come to the Collectors to enter, and also to take in Tobacco, after they are cleared."¹³⁹

An additional administrative difficulty had to do with the requirement that shipmasters give security before clearing that they would deliver their cargoes only in the manner and to the destinations prescribed by the Navigation Acts. Failure to meet the conditions of such a bond would result in its forfeiture and subsequent prosecution by local customs officials. In 1684 English authorities issued instructions to colonial governors warning them not to accept securities from anyone other than "those who are sufficient and responsible inhabitants."¹⁴⁰ In his 1695 memorial, "An Account of Severall Things Whereby Illegal Trade is Encouraged in Virginia Maryland and Pennsylvania . . .," Edward Randolph reported, however, that naval officers regularly accepted securities from "persons of Small or no Estates" who then carried their tobacco to Scotland and forged certificates in order to discharge their forfeited bonds.¹⁴¹

¹³⁹ CRNC, IV, 170.

¹⁴⁰ APCC, II, #162, p. 71; Andrews, Colonial Period of American History, IV, 147.

¹⁴¹ Randolph, Letters, V, 117.

While royal officials argued that security demands were too lenient, Chesapeake residents complained that literal application of the bond provisions and the high security requirements associated with them subjected the colonists to extreme and unjustified hardship. The Maryland legislature's Committee of Grievances objected vigorously, for example, to Governor Nicholson's effort in 1697 to tighten up the system by preventing customs agents from taking "such poor and common Securities as was formerly used."¹⁴² Not only did colonists have difficulty meeting the security requirements, opponents of the governor's initiative argued, but in 1704 the Maryland Council and Assembly charged that "some families has been ruined" financially and more were endangered by the prosecution of forfeited bonds.¹⁴³ Besides afflicting the colonists, College of William and Mary officials intimated in 1723 that the royal government's insistence on demanding large securities, instead of promoting compliance with the trade laws, actually constituted an inducement to illicit trade and customs fraud. Commenting on a recent act of Parliament requiring a minimum security of L1000 sterling, the college men argued that small traders, "being perhaps utter strangers or persons in low circumstances, can find no

¹⁴² Md. A., XXIII, 86; Andrews, Colonial Period of American History, IV, 206.

¹⁴³ Md. A., XXIV, 394.

bondsmen that will undertake for such high sums, and so are obliged to let the exportations of tobacco alone, or to run it without paying any duty."¹⁴⁴

The prevalence of collusion between customs officials and colonists highlighted another conceptual defect in the colonial customs system. Since collectors and naval officers normally resided within the districts over which they had jurisdiction, it was only natural that their affinities would lie, in most cases, with their friends and neighbors.¹⁴⁵ Based in part on the advice of men like Francis Nicholson, the Commissioners of the Customs attempted to address this problem in 1697, having concluded that it was "necessary to form a new establishment of officers, to be settled in Virginia and other his Majesty's Plantations" to execute the navigation laws more effectively. Local customs officials were to be replaced with men "new and unexperienced in the Plantations" because, the commissioners realized, "there could not be that reasonable confidence in persons of interest and residence upon the place as in persons disinterested in and unrelated to the place."¹⁴⁶

¹⁴⁴ Perry, Church Papers, 549.

¹⁴⁵ Barrow, Trade and Empire, 144.

¹⁴⁶ CSPC, XV, #1178, p. 548; Hall, Edward Randolph, 176.

Inexplicably, though, the decision does not seem to have been implemented, as collectors and naval officers in the greater Chesapeake continued to be selected mainly from the colonial ranks. The reason cannot have been that the commissioners changed their minds because in 1714 they reiterated the same conviction in even more explicit and compelling terms: "Can anyone believe that a Coll^r, or other officer, unless he has more integrity than w^t is usual in this Age, will detect his Brother, Uncle, or other Relation of any fraud committed to the prejudice of the Revenue . . . On the contrary is it not rather to be apprehended that the officer and his trading Relation will agree to share the profitt of such fraudulent Trade?"¹⁴⁷

The divided loyalties of local customs officials (to the extent that they experienced conflicting sentiments at all), bureaucratic mismanagement and inefficiency, the pro-smuggling inclinations of the general courts, and the sporadic outbursts of violence against customs officials all posed formidable obstacles to the successful implementation of English imperial trade policy in the greater Chesapeake. As serious as these problems were, though, they could be addressed and, to a certain extent, overcome by the application of various administrative reform, preventive, and punitive measures. But the home government's adoption of a "salutary neglect" strategy in the 1720s virtually

¹⁴⁷ Cited in Hoon, English Customs Service, 207.

ensured that no such corrective initiatives would be undertaken until well after mid-century.

Even the successful resolution of these difficulties probably would not have been sufficient to surmount the much more fundamental and pervasive problem of which many of the other troubles were merely symptomatic. As long as Chesapeake residents perceived royal economic policy as inimical to their individual and collective interests, trade law enforcement would always be hard. Alexander Spotswood, who only six years previously had communicated such a glowing first impression of Virginia's inhabitants, cynically defined this seemingly irreconcilable dilemma from the royal point of view. "Such is the temper of a Sett of men here," the governor contended, "who look upon every benefit that accrues to their Sovereign as so much taken from themselves; who envy his Majestie the profits of his own proper Estates and Revenues."¹⁴⁸

Great as it was, Spotwood's disillusionment in 1716 was far from complete, however. Within the next few years, the willingness of Chesapeake colonists and proprietary officials to tolerate, support, and defend another form of maritime lawlessness would bring the governor to a new threshold of bitterness and frustration.

¹⁴⁸ Spotswood, Letters, II, 153.

CHAPTER VI

"An Unaccountable Inclination to Favour Pirates"

On a day in late December 1718 residents of the port of Hampton, Virginia, who ventured down to the waterfront beheld a gruesome sight. Suspended from the bowsprit of a local sloop hung the severed head of Edward Teach, better known as the infamous pirate Blackbeard. Fearsome in life, the notorious buccaneer's head must have looked especially hideous by the time the vessel returned to its home port. It had been nearly a month since British navy sailors reportedly slashed and punctured Blackbeard with 25 sword and pistol shot wounds before finally subduing and decapitating the outlaw.

Spurred to action by apprehensions about the mounting pirate threat in the region and by the pleas of Carolina traders who had suffered personally from the freebooter's depredations, Alexander Spotswood had contracted the sloop into the service of the Royal Navy and dispatched it on a military expedition to the North Carolina sounds. In the desperate and momentous struggle that followed, a battle so "closely and warmly engaged" that the surrounding waters became "tinctur'd with Blood," naval forces under Lieutenant

Robert Maynard sustained heavy casualties but routed the pirates, killing many and taking the rest prisoner.¹

Blackbeard's death represented more than just the demise of a dangerous and intimidating sea brigand. By seeking out and destroying the marauder in North Carolina, Virginia's royal governor served notice to the buccaneers and their colonial supporters of the British government's determination to extinguish the pirate threat in America. Fifteen captives were taken to Williamsburg to be tried. Thirteen were convicted and executed. The victors' trophy, Blackbeard's grisly head, was set up on a pole at the entrance to Hampton's harbor where it constituted a warning not only to other pirates, but to the inhabitants and

¹ Defoe, History of the Pyrates, 82. Standard secondary accounts of the Blackbeard affair and many of the pirate episodes discussed in this chapter can be found in Rankin, Golden Age of Piracy; Williams, Pirates of Colonial Virginia; Shomette, Pirates on the Chesapeake; and Bruce, Institutional History of Virginia, I, 677-78, II, 203-26. Lee, Blackbeard, offers an alternative view of the behavior of the North Carolina and Virginia governments in response to the Blackbeard menace. Hughson, Carolina Pirates, and Converse D. Clowse, Economic Beginnings in Colonial South Carolina, 1670-1730 (Columbia, S.C., 1971) provide some insight into the impact of buccaneers, both as trading partners and marauders, on colonial economies. Two excellent analyses of the social and political environments in which pirates operated are Ritchie, Captain Kidd, an examination of piracy and the English patronage system, and Rediker, Deep Blue Sea, chapter 6, a study of the social world of Anglo-American freebooters.

officials of the greater Chesapeake as well, that piracy and its abettors would no longer be tolerated.²

Piracy in one form or another plagued the Chesapeake intermittently throughout the colonial period, but threatened the region most seriously between the 1660s, when Governor Berkeley described Virginia waters as being "full of pirates," and the early 1720s when Governor Spotswood declared the colony "secured against the attempts of pyrates . . . on its sea frontiers."³ The problem became most acute between periods of active warfare when buccaneers who had been officially authorized to attack enemy shipping as privateers were then officially condemned for conducting similar activities during peacetime. When the British government initiated a crackdown on piracy in the Caribbean after Queen Anne's War, many freebooters gravitated to the Atlantic coast of North America where they could prey upon English colonial shipping or foreign commerce sailing the Gulf Stream back to Europe.⁴ By the second decade of the

² Tyler, History of Hampton, 31-32; Jane E. Davis, Round About Jamestown: Historical Sketches of the Lower Virginia Peninsula (Hampton, Va., c. 1907), 49.

³ CSPC, XXXIII, #175, p. 85.

⁴ In October 1699 Micajah Perry advised the Board of Trade that the coasts of Virginia, Maryland, and Carolina were "infested with pirates (CSPC, XVII, #905, p. 502). The following June Virginia authorities reported that the colony was in "a continual state of war" with the sea brigands (CSPC, XVIII, #501, p. 302; #523, p. 308).

eighteenth century, American colonists and officials had become keenly aware of the war/privateering, peace/piracy dynamic. Having suffered from an upsurge in piracy between 1697 and 1701 after King William's War, Chesapeake merchants petitioned the admiralty for the additional protection that they anticipated would be required after the conclusion of hostilities in 1713.⁵

Colonial officials committed to eradicating piracy from the Chesapeake in the seventeenth and eighteenth centuries faced a formidable challenge. Freebooting had long benefitted from a tradition of popular and official sanction, collaboration and active participation which, in the colonial era, dated back to the earliest English settlements in the region. Among the charges that Sir Samuel Argall, deputy governor and admiral of Virginia, was recalled to England to answer was one that in 1618 he had assumed the leading role in outfitting the ship "Treasurer" for "Roving on ye Spanish Dominions in the West Indies" and committing "sundry Actes of Hostilitie" against the Spaniards.⁶ Argall's partner in the venture was Robert Rich, later Earl of Warwick, who, already notorious as an investor in piratical enterprises, took an interest in the

⁵ Doty, British Admiralty Board, 75.

⁶ Susan M. Kingsbury, ed., Records of the Virginia Company of London (Washington, 1906), II, 402; Crump, Colonial Admiralty Jurisdiction, 59; Andrews, Colonial Period of American History, I, 47, 122, 166.

Virginia Company because he considered Jamestown a useful staging ground for raids on Spanish New World shipping.⁷ Warwick's influence continued to be felt when, in 1643, Parliament designated him Lord High Admiral of the plantations in America and chief of all resident colonial governors.⁸ How news of this appointment was received in the Chesapeake can only be guessed, but it seems unlikely to have had any sort of chastening effect on colonial attitudes sympathetic toward piracy.

Predictably, the hard evidence linking colonials and pirates is difficult to find. Accessories to crime then as now had little interest in publicizing or documenting their activities. And yet, the sum total of the available evidence -- the repeated complaints by the home government about colonies offering refuge to pirates, colonial governors' proclamations against citizens harboring the outlaws, the favorable treatment pirates received in the colonial courts, and the testimony and actions of the pirates themselves -- suggests a degree of sympathy for and interaction with pirates which historians generally have failed to recognize.

⁷ Wesley F. Craven, "The Earl of Warwick: Speculator in Piracy," Hispanic American Historical Review, X (1930), 463-65; Ritchie, Captain Kidd, 13; Andrews, Colonial Period of American History, I, 120.

⁸ Andrews, Colonial Period of American History, IV, 33.

Most scholars have maintained that the association between Chesapeake colonists and pirates was very limited.⁹ But such a conclusion fails to address the simple observation made in 1699 by Surveyor General of the Customs Robert Quarry that "if the pirates have not supplies and a market for the goods that they plunder and rob, they would never continue in these parts of the world."¹⁰ Few officials anywhere could claim to have a better understanding of the nexus between pirates and colonists than Quarry, who in 1686 had been removed from the office of secretary in South Carolina as a result of his own collusion with freebooters.¹¹

There can be little doubt that many colonists viewed interaction with pirates favorably. Some may have envied the buccaneer's life of adventure and hedonistic pursuits, free from the constraints of lawful authority. Others, like coastal residents reported to have visited Captain Kidd's ship in 1699, probably sought nothing more than to glimpse the vast booty rumored to be aboard and to rub shoulders

⁹ See, for example, Bruce, Institutional History of Virginia, II, 209, Morriss, Colonial Trade of Maryland, 132, 133.

¹⁰ Bruce, Institutional History of Virginia, II, 209; Clowse, Economic Beginnings, 88.

¹¹ Bartholomew R. Carroll, Historical Collections of South Carolina; Embracing Many Rare and Valuable Documents, Relating to the History of that State from its First Discovery to its Independence in the Year 1776 (New York, 1836), I, 86; Clowse, Economic Beginnings, 88; Hughson, Carolina Pirates, 23.

with individuals who had attained a degree of roguish celebrity in their own time.¹² A few colonists actually became buccaneers themselves, but it appears that most of those who became actively involved with freebooters did so for economic reasons. As Virginia governor Spotswood cynically remarked in 1719, "People are easily led to favor these Pests of Mankind when they have hopes of sharing in their ill-gotten Wealth."¹³

Pirates became preferred trading partners, especially in areas where European manufactured goods were in short supply, because, like the Dutch, the freebooters could provide these goods at or below market price.¹⁴ The Navigation Acts, which raised the cost of European goods by restricting their flow to the colonies and adding import duties, encouraged colonists to seek alternative suppliers to such an extent that the legislation has been identified as the principal contributor to piracy in the western world.¹⁵ Chesapeake colonists also looked to pirates to supply them with gold and silver specie, another commodity in great demand. For many years after the founding of Carolina, sea brigands were responsible for furnishing most

¹² Thomas Wellburn to Edmund Jennings, CO5/1411, fo. 321, 6/29/1699.

¹³ Spotswood, Letters, II, 319.

¹⁴ Clowse, Economic Beginnings, 87-88.

¹⁵ Hughson, Carolina Pirates, 15; Davis, Round About Jamestown, 45.

of the currency which circulated in that colony.¹⁶ Once again English authorities unwittingly drove colonists into the pirates' arms, in this case by generally refusing to accept commodity payments for quitrents in North Carolina.¹⁷

In return for buccaneer loot and specie, the colonists rendered that which the home government generally did not require but which the pirates regularly sought: provisions of food, naval stores, and occasionally, arms. While the majority of Chesapeake inhabitants probably had little or no connection with sea brigands at all, those who did developed and maintained mutually advantageous relationships based on an unwritten, and perhaps unspoken, understanding: that the freebooters would continue to view the colonists as partners, not prey. As long as the sea robbers respected this agreement, there is little to indicate that the colonists assisted in their capture and conviction. But when their lives and property were threatened, most, though certainly not all, Chesapeake residents supported government efforts to remove the pirate menace from their midst.

Unfortunately, the historical record offers little insight into the nature of these business relationships, particularly in the Chesapeake. It is possible, however, to

¹⁶ Hughson, Carolina Pirates, 14; Clowse, Economic Beginnings, 187 n. 3; Carroll, Historical Collections, I, 172.

¹⁷ NCHCM, 1709-1723, xx.

extrapolate from similar liaisons elsewhere information which probably applied to the Chesapeake as well. A woman who sold goods to Blackbeard in Philadelphia, for example, recalled that "he bought freely and paid well . . . was too politic to bring his vessel or crew within immediate reach; and at the same time was careful to give no direct offense to any of the settlements where they wished to be regarded as visitors and purchasers."¹⁸ Blackbeard, or Teach (also represented variously in the literature as Thack, Tach, Thach, or Thatch), appears to have behaved in a similarly inoffensive manner when he first arrived at Ocracoke Inlet, North Carolina. There "he often diverted himself with going ashore among the Planters where he revell'd Night and Day" and socialized with the colonists by whom "he was well received."¹⁹ But unlike Philadelphia, where Blackbeard never actually resided and where a more concerted resistance to his presence might have been mounted, in North Carolina the pirate began to abuse his hosts, sometimes taking liberties with the planters' wives and daughters, but, more

¹⁸ Cited in John F. Watson, Annals of Philadelphia, and Pennsylvania, in the Olden Time, 3 vols. (Philadelphia, 1884), II, 216-17, 219, 223; Lee, Blackbeard, 79.

¹⁹ Defoe, History of the Pyrates, 77; [Charles Ellms], The Pirates Own Book, or Authentic Narratives of the Lives, Exploits, and Executions of the Most Celebrated Sea Robbers (1837; reprint Salem, Mass., 1924), 340.

significantly in terms of his ultimate denouement, by pillaging the sloops of local traders.²⁰

A variety of sources, including accounts by the buccaneers themselves, attests not only to the pirates' affinity for the Carolina sounds and Virginia's Eastern Shore as places to victual and refit their ships but also to the local colonists' willingness to accommodate them. Writing to the Board of Trade in 1699 "On behalf of those trading to Virginia and Maryland," Micajah Perry and other merchants complained of recent buccaneer depredations near the Chesapeake and requested the deployment of several guardships to cruise the Atlantic coast of America "where the pirates do the greatest mischief and is to be feared find encouragement."²¹

More specifically, the pirate William Dampier, who arrived at Accomack on the Eastern Shore in 1682 with 20 men and spent a year preparing for a famous piratical expedition to Africa and the South Seas, identified Virginia as a good place to do business because of the colony's insufficient supply of European goods and ample food reserves.²² The following year another pirate crew joined Dampier's company and traded its cargo of wines to local inhabitants in

²⁰ Defoe, History of the Pyrates, 77; [Ellms], Pirates Own Book, 340; Spotswood, Letters, II, 273.

²¹ CSPC, XVII, #989, p. 539.

²² Williams, Pirates of Colonial Virginia, 37-42; Middleton, Tobacco Coast, 206.

exchange for "such Provisions as they wanted," including foodstuffs, naval stores, "and every thing necessary for so long a Voyage."²³ In 1691 the naval officer for the Eastern Shore reported that the islands of his district had become a favorite resort of the freebooters; the same man testified again, this time as commander of the local militia, to the same effect in 1699.²⁴

Virginia seems to have been an especially popular destination for buccaneers who had just completed successful freebooting forays and for escaped pirates seeking safe haven. In 1688 the royal guardship Dunbarton overtook several sea brigands and a black slave who were making their way in a shallop across the bay to Virginia where, one of the group later reported, they hoped to retire peacefully with their booty.²⁵ The three buccaneers, Edward Davis, John Hinson (or Hincant), and Lionel Wafer (or Delawafer), were all members of the crew of some seventy marauders (including Dampier) that had embarked from the Eastern Shore

²³ Dampier, Voyages, I, 98; Kemp and Lloyd, Brethren of the Coast, 85.

²⁴ John Custis to Francis Nicholson, CO5/1411, 10/16/1699; Bruce, Institutional History of Virginia, II, 207; Williams, Pirates of Colonial Virginia, 40; Middleton, Tobacco Coast, 206.

²⁵ Wafer, Isthmus of America, 131.

five years earlier on their well-documented freebooting voyage.²⁶

Just over a decade later, sea robbers seemed to be heading for the colony in droves. In 1699 the captain of a ship owned by New York and London merchants informed one of his principal employers, prominent New Yorker Stephen De Lancey, that he had just returned from Madagascar with a rich cargo and about fifty Red Sea pirates as passengers, most of whom, he indicated, "design for Virginia and Horekills" in Delaware.²⁷ The same year colonial officials grew apprehensive over reports that close to seventy pirates who recently had escaped from jails in New

²⁶ This particular case has received considerable attention since both Dampier and Wafer mentioned it in their popular accounts and also because its resolution was partly responsible for the founding of the College of William and Mary. Although the pirates initially fabricated an altogether different story for the arresting guardship captain in order to conceal their true identities, they later claimed that they were returning to Virginia in response to King James's proclamation of 1687 which offered a general amnesty to freebooters who surrendered to royal authorities. Since they professed not to be "on the account" any longer they argued that they were entitled to keep their loot. The buccaneers were sent back to England where they apparently had some influence in high places. The final settlement, believed to have been crafted largely through the intercession of James Blair, permitted Wafer, Hinson, and Davis to gain their freedom and keep their plunder except for L300 which was to be consigned to the college's endowment fund (CSPC, XIII, #2059, p. 599; #2119, p. 610; Wafer, Isthmus of America, xii, xiii, xxix, xlii-1; Dampier, Voyages, I, 533-34, 537-38; EJC, I, 107-09; VMHB, XX, 5-7; CTB, IX, pt. 3, 1027-30; pt. 4, 1561; WMQ, 1st ser., VII, 165.

²⁷ CSPC, XVII, #512 ii, p. 281; Karraker, Piracy was a Business, 79-82.

England and the Middle Colonies were believed to be headed for the Chesapeake in general or Virginia in particular.²⁸

Even after Blackbeard's depredations and defeat, some Virginians apparently had no compunction about offering pirates a friendly reception. Four members of a pirate crew who put ashore in York County in 1720 "met with good Entertainment among the Planters," revealed at a tavern, and bought several female indentured servants.²⁹ Before their capture, the pirates managed to lodge much of their booty with amicable locals who surrendered the effects only after "a great deal of Search and trouble."³⁰

Besides the colony's allure as a place in which to linger and perhaps reside, Virginia continued to attract more transient freebooters bent on further marauding adventures. In 1699 the pirate John James visited the colony to procure various supplies including naval stores and ammunition.³¹ The following year Governor Nicholson advised the commander of the royal guardship on station in the Chesapeake that a pirate named Breholt, recently acquitted by a general court in South Carolina, "designed either to sail for Smith's Island in Virginia, to get more

²⁸ Shomette, Pirates on the Chesapeake, 116-17.

²⁹ Defoe, History of the Pyrates, 207; EJC, III, 522.

³⁰ Spotswood, Letters, II, 338, 342.

³¹ John Martin to Francis Nicholson, CO5/1411, 7/29/1699; Shomette, Pirates on the Chesapeake, 104.

provisions, or else to Cape de Verd."³² As late as 1720 Governor Spotswood lamented the fact that pirates still visited the Virginia coast "where they frequently resort to furnish themselves w'th provisions."³³

Notwithstanding Virginia's distinction as a preferred pirate haunt, North Carolina developed an even more widespread and unenviable reputation as a sea robber's haven. In 1683 the Lords of Trade complained about the "harboring and encouraging of pirates in Carolina . . . to the great damage that does arise in his Majesty's service," a charge repeated the following year by the governor of Jamaica.³⁴ A 1707 act designed to encourage settlement in North Carolina deplored the fact that the colony constituted the only tract of land in English North America in which "the Enemy in time of Warr and Pyrates in time of Peace have hitherto made use of the Harbours therein to careen and fitt their vessells as also to Wood and Water to the great

³² CSPC, XVIII, #523 xv (11), p. 315.

³³ Spotswood, Letters, II 350; CSPC, XXXII, #523, p. 328.

³⁴ CRNC, I, 347. In 1701 a Jamaica governor again complained, with Carolina no doubt prominent in his thinking, that "the insinuations continually made, by the proprietary colonies on the continent, of the great liberties and exemptions they enjoy under those governments, and of the advantages they make by receiving pirates, have enticed away much people from Jamaica" (Stock, Debates, 396; Hall, Edward Randolph, 212).

annoyance of her Maj^{ties} Subjects trading along the Coast."³⁵

In 1697 New Jersey governor Jeremiah Basse informed royal authorities that a vessel outfitted for a "piratical voyage" had "put in to Carolina, sold all her lading at under rates, taken in men and provisions and gone privateering."³⁶ About two decades later, a freebooter named Lewis cleaned his sloop on the coast of North Carolina where, Daniel Defoe reported, "the Natives traded with him for Rum and Sugar, and brought him all he wanted, without the Government's having any Knowledge of him."³⁷ In 1722 pirate captain George Lowther and his crew spent an entire winter in a secluded North Carolina inlet.³⁸ As late as 1729 the Lords of Trade expressed the view that "North Carolina . . . (ever since t'was a separate Government) has only been a Receptacle for Pyrates Thieves and Vagabonds of

³⁵ CRNC, I, 674.

³⁶ CSPC, XV, #1203, p. 568.

³⁷ Defoe, History of the Pyrates, 595; [Ellms], Pirates Own Book, 310. Neither Defoe nor Charles Ellms provide any dates for Lewis's career. Both authors describe an indirect encounter between Lewis and Woodes Rogers, however, which appears to have taken place after Rogers had given up buccaneering and taken charge of the royal government's effort to suppress piracy in the Caribbean. Rogers accepted the official post in 1717 ([Ellms], Pirates Own Book, 311; Defoe, History of the Pyrates, 595; Kemp and Lloyd, Brethren of the Coast, 182).

³⁸ Defoe, History of the Pyrates, 315.

all sorts."³⁹ Pirates, it appears, had become so well integrated into the fabric of North Carolina society that a citizen could casually remark, in reference to the shortage of clergymen in the colony around 1730, that "they that are Religiously Inclined getts a Tayler or Some old Pirate or Some Idle Fellow to Read the Service . . . and then He Hacks out a Sermon."⁴⁰

As is the case with illicit trade, evaluating North Carolina's role as a sanctuary and staging ground for pirates is complicated somewhat by the issue of royal versus proprietary control. Proponents of the extension of imperial authority who favored charter nullification had an obvious interest in tarring the private governments with the brush of pirate collaboration. Edward Randolph went so far as to declare that piracy in America would never be suppressed as long as Carolina and other proprietary colonies remained separate from the crown.⁴¹ In 1697 the Council of Trade informed the Carolina proprietors that the king had received complaints about "entertainment given to Pyrates in . . . the proprietaries" with particular reference

³⁹ CRNC, III, 49.

⁴⁰ Edmund and Dorothy S. Berkeley, eds., "'The Manner of Living of the North Carolinians,' by Francis Veale, December 19, 1730," North Carolina Historical Review, XLI, 242; NCHCR, VI, xxxii n. 65.

⁴¹ Randolph, Letters, V, 179; CSPC, XVI, #451, p. 211.

to "Carolina as too ordinary a Receptacle of Pyrats."⁴²

In a 1720 memorial colonial agents John Barnwell and Joseph Boone maintained that the North Carolinians "for their entertaining Pirates . . . are justly contemned by their neighbors, for which reason and that they may be under good Government . . . it would be useful to joyn the same again to Virginia."⁴³

The extent to which such disparaging views of North Carolina were influenced or motivated by a desire to discredit proprietary government is difficult to assess; but if the debate over charter resumption was responsible for exaggerating the level of complicity between private colonies and pirates, it may also have had the opposite effect. In view of the pressure brought to bear through the threat of charter revocation, it is quite conceivable that officials in the proprietary colonies felt constrained to underreport the level of pirate activity in their jurisdictions.⁴⁴

Of the three greater Chesapeake colonies, Maryland alone generally seems to have avoided the designation of pirate resort or sanctuary, a circumstance which may be attributed partly to geography and partly to effective public relations. Maryland lay further from both the sea

⁴² CRNC, I, 475.

⁴³ Ibid., II, 396.

⁴⁴ Clowse, Economic Beginnings, 88, 92.

marauders' Caribbean bases and their favorite Atlantic coast hunting grounds in the Gulf Stream (especially near the entrance to the Chesapeake bay) than either Virginia or North Carolina, and freebooters attending to business farther north usually bypassed Maryland in favor of larger maritime entrepôts like Philadelphia, New York, and Boston. Additionally, Maryland legislators did their best to quash any notion that their colony connived at or abetted any form of maritime lawlessness. In response to a 1701 inquiry from the Lords of Trade concerning the conduct of the proprietary governments and, specifically, the charge that "those proprietary Collonys are the Ordinary refuge and retreat of Pyrats and illegal traders," the Maryland House of Delegates unequivocally declared that "as to Pyrates and illegal Traders &c. This House say they never knew of any to be harboured or favoured within this Province."⁴⁵

Such an emphatic assertion suggests that the delegates either were extremely ignorant of their own recent history or that they were engaging in a bit of self-serving dissimulation. Marylanders, as we have seen, not only had countenanced and conducted illicit trade widely during the preceding decades, but continued to do so in the eighteenth century. "As for piracy," William Penn contended in defense of his own colony (which royal officials so frequently denigrated as a buccaneer's haven), if Indian Ocean and Red

⁴⁵ Md. A., XXIV, 212, 242-43.

Sea freebooters had not "found a yearly supply of flower and ammunition from some of our neighbouring Colonies . . . and then have returned these fellows upon us and our coasts . . . we had never a spot upon our garment."⁴⁶ Although the Pennsylvania proprietor neglected to specify the neighboring provinces to which he was referring in this instance, he had made particular reference earlier in the same 1700 memorial to those "pirates, whose camerades have long sown themselves" in a number of colonies including his own, Virginia, Carolina, and Maryland.⁴⁷ Several years earlier, in response to a home government inquiry concerning "which of the Colonies have been more blameable in their conduct towards pirates," New Jersey governor Basse identified Maryland as one of four colonies (including Virginia) where "persons suspected of being concerned in these ill-designs have been entertained and settled."⁴⁸

Since Virginia, North Carolina, and Maryland did not boast large seafaring populations, particularly during the piracy era, it is not surprising that none of these colonies produced many pirates. At one point during Queen Anne's War, for example, Virginia officials reported that no privateers had been fitted out in the colony to cruise

⁴⁶ CSPC, XVIII, #366, p. 211.

⁴⁷ Ibid., 209.

⁴⁸ CSPC, XV, #1203, p. 568.

against the enemy and they did not anticipate that any would.⁴⁹ Nonetheless, a number of colonists did join existing pirate bands, including those of Blackbeard and Stede Bonnet, and a handful actually organized pirate crews of their own.⁵⁰ In fact, each of the three greater Chesapeake colonies had the distinction of producing at least one practitioner of this "home-bred villany," as Maryland governor John Seymour termed it in 1707.⁵¹

One of the earliest native Chesapeake pirates was Roger Makeele (McKeel, or Meekeele), "a person of not onely evill fame, but certainly of very bad life and conversation" who in 1685, according to Maryland authorities, was operating out of Watts Island in the bay near Accomack County. Identified as a Virginia resident, Makeele conducted depredations on both sides of the colonial border, but perhaps to a greater extent in Maryland where he and his accomplices were said to "frequently infest this Province as Pirates and Robbers, violently assaulting plundering and robbing the good people of this Province and others passing to and fro."⁵² Though Makeele's waterborne crew was

⁴⁹ Howard Chapin, Privateer Ships and Sailors: The First Century of American Colonial Privateering, 1625-1725 (Toulon, France, 1926), 221.

⁵⁰ Defoe, History of the Pyrates, 104; Hugh Rankin, The Pirates of Colonial North Carolina (Raleigh, 1988), 66, 70-71.

⁵¹ CRNC, I, 667.

⁵² Md. A., XVII, 351.

thought to consist of only four men, he was aided by three land-based allies on Watts Island and Maryland officials suspected that he had additional "Confederates on the adjacent Islands." Despite the outlaw's many "villainies insolencies and robberies" and a colony-wide call to all sheriffs and other provincial officers for his apprehension, Makeele apparently managed to avoid capture, possibly by seeking sanctuary in North Carolina.⁵³

Among the last of the home-grown freebooters in the greater Chesapeake during the colonial era was John Vidal, whose failed career illustrates and was synchronous with the decline of piracy in the region. A former Bath, North Carolina merchant who evidently grew impatient with the lawful pursuit of wealth, Vidal attempted to seize several ships entering Ocracoke Inlet in 1727. After the Blackbeard affair, the local population was hardly inclined to support or ignore such brazen thievery with the result that Vidal and two companions were quickly apprehended.⁵⁴ The outlaws were sent to Virginia for trial where they were convicted and sentenced to death, but a successful petition to the governor saved Vidal's life.⁵⁵

⁵³ Ibid., 350-51; EJC, I, 68.

⁵⁴ CRNC, II, 676-77; NCHCM, 1724-1730, liv, 203, 447-48; CSPC, XXXV, #690, p. 347.

⁵⁵ VMHB, XXXII, 242; CSPC, XXXV, #707, p. 353; NCHCM, 1724-1730, liv. Among those responsible for initiating the pardon appeal was Richard Fitzwilliam, former customs collector for the lower James River district who had been

The Chesapeake pirate who caused the greatest alarm in the region, though, was Richard Clarke of Anne Arundel County, Maryland. Although Clarke first gained notoriety in 1704, several years after the House of Delegates denied that the inhabitants of their colony ever aided or abetted pirates, various aspects of his case suggest both a local and a regional predisposition to offer sympathy and succor to such maritime outlaws. Official anxiety over this support, as well as the perceived threat to the colony's welfare, may explain the inordinate amount of time and energy that Maryland authorities devoted to Clarke's capture and the investigation of his activities and associations.⁵⁶

Despite the provincial government's virtual obsession with Clarke, it was mainly the prospect of his freebooting and the contrivances related to it, as opposed to anything he actually accomplished on the high seas, that excited such great consternation in the highest administrative levels.

accused of corruption and countenancing pirates in 1720 by Governor Spotswood and Captain Brand (Spotswood, Letters, II, 326-38). By 1727 Fitzwilliam had been promoted to the position of surveyor general of the king's customs for the southern colonies (Andrews, Colonial Period of American History, IV, 200).

⁵⁶ Md. A., XXV-XXVII, passim. In July 1705 Governor Seymour complained to the Board of Trade that Clarke's "treachery and villany" had been "no common misfortunes, having allow'd me little ease since my tedious long voyage hither" (CSPC, XXII, #1210, p. 550). The governor had no way of knowing, of course, that he would continue to be preoccupied with the elusive outlaw for almost three more years.

The only documented, successful case of piracy in which Clarke was directly involved apparently occurred sometime before September 1705 when he and his cohorts, "suspected to be going on a Pyratival design," commandeered the sloop Little Hannah from Maryland's West River.⁵⁷ But by the time that Governor Seymour issued the latest of several calls for assistance in Clarke's capture to the Virginia and North Carolina governments in 1707, Maryland authorities had discovered that the outlaw's larger "Pyratival design" was far more ambitious, sinister, and threatening than anything they had imagined.

In June 1707 Seymour reported to the Board of Trade "a new discovered peice of Villany that Richard Clarke with his Gang of Runaway Rogues had concerted to Seize on our Magazine, and burne this Towne and Port of Annapolis, & then Steale a Vessell and turne pyrates."⁵⁸ A select committee of the House of Delegates recently had determined that Clarke's intention in setting part of the capital ablaze was to create a diversion so that "whilst that Consternation continued" the cutthroats might "seize the Magazine and Powder House to furnish themselves with Arms and Ammunition" for a freebooting expedition which would take them first to North Carolina to outfit their vessel and eventually to

⁵⁷ EJC, III, 28-29.

⁵⁸ Md. A., XXV, 262.

Madagascar to prey on Indian Ocean shipping.⁵⁹ Maryland officials charged that, in the course of putting this complex, "Cursed and wicked Design" into execution, Clarke not only had engaged in piracy, but forgery, tobacco fraud, and counterfeiting, and had conspired with hostile forces to attack and destroy the colony.⁶⁰

The search for Clarke and his accomplices is significant in several respects. First, some of the outlaws were caught -- which was unusual in itself -- and two were taken, of all places, in that infamous pirate haven, North Carolina. Seymour's own astonishment is evident in a letter to the Lords of Trade in which he describes how the Carolinians "express their utmost Resentment against those Villains . . . by endeavouring to take Clarke and actually surrendering . . . two of his associates."⁶¹ Why the notoriously recalcitrant North Carolinians were so cooperative in this instance is not clearly indicated, but it may have had something to do with the colony's history of Indian troubles and a perception that Clarke and his cohorts represented a real danger in this regard. Among the crimes for which Maryland authorities sought Clarke was plotting with the "heathen Indians . . . to Cutt off and Extirpate

⁵⁹ Ibid., XXVII, 134-35; EJC, III, 142.

⁶⁰ Md. A., XXV, 185, 188; XXVI, 379, 450-51, 453; XXVII, 23, 26, 31, 33, 134; EJC, III, 28-29; VMHB, XVI, 75-76.

⁶¹ CRNC, I, 666.

the Inhabitants of this Province," and threatening to bring 30,000 French Indians (not to mention a French naval force) to attack the settlement.⁶²

The most noteworthy aspect of the manhunt and the government investigation was the extensive network of support for Clarke and his accomplices that they revealed. Indeed, according to Governor Seymour in 1707, it was Clarke's having been "concealed and harboured by many of his Friends" and relations in Maryland and Virginia that had prevented his apprehension for nearly three years.⁶³ And, despite the assistance that North Carolinians rendered in apprehending Clarke's accomplices, it is clear from various depositions that the outlaws felt confident enough in their ability to operate safely out of Carolina to select it as the staging ground for future freebooting enterprises.⁶⁴

How Clarke managed to garner support throughout the greater Chesapeake is something of an enigma. Early notices of the malefactor, which portrayed him as an armed bandit who had been riding about the province "threatning the Death of Severall . . . Subjects . . . and putting the inhabitants in Terrour of their Lives & Robing their houses," hardly

⁶² Md. A., XXVI, 450-51, 487, 513: CRNC, I, 666; CSPC, XXII, #1210, p. 550.

⁶³ CRNC, I, 666; VMHB, XVI, 76.

⁶⁴ Md. A., XXVII, 130-32, 135-36, 139. In March 1707 one deponent reported having been informed that Clarke was living in North Carolina where he had purchased 600 acres of land (Ibid., 131).

seemed likely to endear him to his neighbors.⁶⁵ Nor did Clarke's image, at least as it was reflected in official documents, improve over time. And yet, segments of Maryland's population seemed remarkably unperturbed about the presence of such an allegedly dangerous felon at large in their midst.

Worse yet, from the royal governor's perspective, a widespread sympathy for Clarke and his companions manifested itself in the reluctance of Maryland legislators either to seek the outlaws aggressively or, once apprehended, to punish them harshly, and in the active support that many colonists professed and demonstrated for the fugitives both before and during their incarceration. Within the colonial government, differences of opinion over how to deal with Clarke and his accomplices, in terms of both capture and sentencing, reflect deeper philosophical divisions between the various levels of Maryland's social and political hierarchy over the broader issue of what sorts of behavior actually constituted lawlessness in, or a serious threat to, the colony.

When, for instance, the Council of Maryland initially proposed that the assembly pass an act outlawing Richard Clarke for "divers heinous offenses" said to include "riding armed to the Terrour of the . . . People in Contempt of the Law and breach of his Matys Peace," the members of the House

⁶⁵ Ibid., XXV, 185.

of Delegates demurred, citing a lack of compelling evidence that Clarke truly represented a clear and present danger.⁶⁶ Conversely, the assemblymen acted with singular decisiveness when, after having suggested to Governor Seymour that he consider another option besides execution for Benjamin Celie, one of Clarke's captured cohorts, the chief executive responded that unless the House proposed a specific alternative he was inclined to impose the death sentence. Quickly taking the matter "into their serious Consideration," the assemblymen recommended banishing Celie "or any other Thing which may save his Life . . . we being very desirous that his Life may be saved."⁶⁷ The idea of transporting Celie out of the colony actually had been proposed initially by the council (which had expressed a similar desire to save the condemned man's life). In view of their previous advocacy of swift measures to outlaw and capture the criminals, it appears that the councilors were treading a middle ground between the conflicting sentiments of the English royal governor and the largely native-born Marylanders of the lower house.⁶⁸

Perhaps even more disconcerting to high government officials were the results of an official investigation which indicated that quite a few colonists had been

⁶⁶ Ibid., XXV, 185.

⁶⁷ Ibid., 501.

⁶⁸ Ibid., 459.

supporting the malefactor and his "prodigall Companions" not simply in word, but in deed as well.⁶⁹ In April 1705 the council examined several suspects under "Violent Presumption" of having assisted Benjamin Celie in breaking out of jail.⁷⁰ Further inquiries revealed that Clarke's mother had persuaded the local smith to slip the prisoner a file, promising as a reward the termination of his "Slavery," since Celie and Clarke were said to "know all the Country over."⁷¹ The council also chastised the commander of the colony's rangers for not pursuing Clarke "with any Sort of Discipline or Sence" and decided not to prosecute one Edward Mariarte for providing the fugitive with a horse and boat.⁷²

If one aim of the government hearings was to discourage other colonists from abetting the outlaws in the future, they clearly failed in this purpose. By April 1707 a frustrated governor and council complained that, although grand juries had issued four bills of indictment against Clarke over the past several years, "Yet divers evil Persons have presumed to Receive Comfort and aide him whereby he has been able to avoid Justice . . . Sculking within Tenn miles of . . . the Seate of Government and practicing and

⁶⁹ Ibid., XXV, 265.

⁷⁰ Ibid., 188.

⁷¹ Ibid., XXVI, 463.

⁷² Ibid., XXV, 186, 187, 190.

carrying on his Trayterous and wicked designs."⁷³ (The authorities actually seem to have had Clarke in their grasp on a number of occasions, but, according to Governor Seymour, the felon had "made many Escapes from the Sherriffs, and others who . . . had him in Custody.")⁷⁴

Meanwhile, the government's continuing investigation produced new and even more disquieting revelations about Clarke's support network. Deponents testified that Captain Sylvester Welch, whom government officials had engaged to lure Clarke into a trap, not only informed the outlaw of the plan, but sold three pounds of the colony's gunpowder to one of Clarke's accomplices.⁷⁵ Another man confessed to "harbouring Entertaining and Concealing Richard Clarke in his house" and Welch tacitly admitted that he had done the same.⁷⁶ Perhaps most disturbing of all were the "Oaths of two good Sufficient Evidences" that a member of the assembly, Joseph Hill, had "Aided Abetted & Corresponded with Richard Clarke."⁷⁷ Although Hill denied the charge,

⁷³ Ibid., XXVII, 38.

⁷⁴ VMHB, XVI, 76. Since none of these episodes is detailed in the documentary record, it is not known whether Clarke contrived his own getaways or whether, like his accomplice Benjamin Celie, he had assistance from friends or relatives. In any event, Governor Seymour advised his Virginia counterpart to "give particular Charge for" the fugitive's "being well Secured if apprehended" (Ibid.).

⁷⁵ Md. A., XXV, 218-19, 220, 222; XXVII, 134.

⁷⁶ Ibid., XXV, 221-22.

⁷⁷ Ibid., XXVII, 41.

the colony's attorney general considered the evidence persuasive enough to pronounce him guilty of "high misprision," after which the colony's legislators had little choice but to expel their peer from the assembly.⁷⁸

By July a dejected Governor Seymour seemed to despair of ever apprehending the wanted man. Striking at what he believed to be the heart of the matter, Seymour lamented to the Board of Trade that, although Clarke was "one of the Greatest of Villains, Yet . . . out of a foolish Concept of his being a Stout Fellow, and Country borne, the Natives being now growne up, and most of them in Offices, are very backward, if not altogether unwilling to bring him in."⁷⁹ Within a year, though, Maryland authorities had Clarke in

⁷⁸ Ibid., XXV, 43, 46-47, 51, 55, 118.

⁷⁹ Ibid., 262-63. The governor's characterization of the natives as being "growne up" with many holding office refers to the emergence in Maryland at the turn of the eighteenth century of a social and political elite composed of native-born inhabitants as opposed to English immigrants. The tension between Seymour and the colonists over the latter's alleged complacency in bringing Clarke to justice represents one manifestation of the diverging interests of the colony and the home government that marked this pivotal period in the colony's social and political evolution. That the council alternately adopted positions in the Clarke affair which seemed closer to those of the governor or the assembly reflects the political reality that the councilors, though residents of the colony (and, by this time, many of them native born), were appointed by the royal governor. For a detailed analysis of the demographic factors which led to the development of a native-born elite as well as the political ramifications of the phenomenon see David W. Jordan, "Political Stability and the Emergence of a Native Elite in Maryland" in The Chesapeake in the Seventeenth Century, Tate and Ammerman, eds., 243-73, especially pp. 254, 260-61, 270-71.

their hands. How he came to be in custody is unclear since there appears to be no documentary evidence relating to his capture. A letter from Clarke, dated January 30 and read at an April 1708 council meeting, expressing "a deep sence of the Horrour and detestation of his Crimes" and offering to "Submitt himself to his Excys Mercy" suggests that the fugitive may have given himself up.⁸⁰ Even with Clarke in prison, though, the governor and his supporters could hardly rest easily. In fact, the stability of the colony seemed to grow even more precarious.

At one council meeting a deponent testified to having heard "some very wicked Expressions come out of the Mouth" of one William Chew to the effect that if the authorities hanged Clarke "they had best do it in private."⁸¹ What Chew meant by his remark was clarified by another informant who reported a threat by one John Gay that "there would be bloody noses before Clarke should be hanged."⁸² The same witness testified to the devotion of another Clarke admirer, a Mr. Stokes, who declared that, though he had never met the outlaw, yet "rather Than he should be hang'd he would give fifty pounds if he had no more money in the World."⁸³ The concern of some colonists for Clarke's well-being apparently

⁸⁰ Md. A., XXV, 236.

⁸¹ Ibid., 237.

⁸² Ibid., 241.

⁸³ Ibid.

extended to his abettors as well. Regarding the prospect that the government might further trouble former assemblyman Joseph Hill, William Chew reportedly warned that those who had a "Care for the Country will never Suffer it for there was three hundred men in Baltemore County . . . that would stand by him," men who were "so intent upon the matter" that they were currently "a scouring up their rusty pistols" to come to Hill's defense if necessary.⁸⁴

Apart from those in authority, practically the only Chesapeake colonists to disavow Clarke publicly were Maryland's Quakers who took pains to "utterly disowne and deny" any relationship with a "wicked and ungodly man" who had been guilty of such "Villainous abusive and Rebellious" behavior against the provincial government. It is apparent, however, that another consideration equalled, and probably superseded, the Quakers' concern about the morality of Clarke's actions. Someone, most likely Clarke himself, had sent several letters to the governor "under a Quaker stile" in an attempt, adherents of Maryland's Society of Friends feared, to render them "obnoxious to this Civill and Moderate Government."⁸⁵ As members of a small and vulnerable religious minority which had suffered severe persecution in England and the colonies, the Quakers were understandably sensitive to any aspersions on their loyalty

⁸⁴ Ibid., 237-38.

⁸⁵ Ibid., 260-61; CRNC, I, 666.

as British subjects. In the absence of such a threat it seems doubtful that even they would have gone on record as opposing Clarke and his confederates (whom the Friends also professed to "detest and abominate"), a position which may not have been popular with many of their fellow colonists in the bay region who clearly sympathized with the outlaws.

In view of the continued grassroots support for the desperado and his history of successful escapes from custody, government officials wasted no time in sealing Clarke's fate and precluding any public participation in that decision. At the same meeting in which witnesses related Gay's and Stokes's remarks the governor and council resolved that not only would Clarke have no trial by jury, but he would have no trial at all. Instead, they condemned him to be executed within the week.⁸⁶

As Richard Clarke's case demonstrates, colonial governors resorted to various expedients to suppress piracy in the region, many of which suggest the colonists' disinclination to assist in the capture of pirates or worse, their willingness to shelter or actively collaborate with the outlaws. During periods of heightened pirate activity in 1684, 1700, and 1705 Maryland and Virginia governors issued proclamations which not only requested the citizens' assistance in apprehending pirates, but warned colonists of

⁸⁶ Md. A., XXV, 240.

the dire consequences for those who offered succor to the sea robbers.⁸⁷ Late in 1699 the governor of Virginia offered a reward for the arrest of pirates who, he feared, "may endeavor to . . . conceal themselves by . . . coming on shore . . . in hopes of being harbored by wicked & ill disposed persons."⁸⁸ Parliament reflected the concern of colonial officials when, in passing the 1699 act for the suppression of piracy, it prescribed penalties not only for convicted freebooters but also for those who aided and abetted them.⁸⁹

After local colonists entertained two groups of pirates and helped them secrete their booty in 1720, Alexander Spotswood employed a combination of incentives and penalties to discourage such behavior in the future. First, he proposed instituting a system to reward those who turned piratical effects over to the government.⁹⁰ On the punitive side, Spotswood saw to it that six of eight pirates who were apprehended at that time were executed; and, to reinforce a message of warning to would-be pirates and their collaborators, he considered it "necessary for the greater Terrour to hang up four of them in Chains," two at Tindall's

⁸⁷ EJC, I, 62-63; II, 69-70; III, 69; CSPC, XVIII, #234, p. 128.

⁸⁸ EJC, II, 29-30.

⁸⁹ Hening, Statutes, III, 178-79; Hughson, Carolina Pirates, 42-43.

⁹⁰ Spotswood, Letters, II, 340.

Point on the York River and the other pair at Urbanna on the Rappahannock.⁹¹

Some of the tension between Chesapeake residents and royal authorities specifically concerned the colonists' alleged willingness to shelter not only established freebooters, but also sailors who deserted from merchant ships in order to join pirate crews. In 1697 Maryland Governor Nicholson expressed to the Board of Trade his "fear that if some course not be taken to prevent . . . Pyrats being harboured and entertained in these parts of the World, as also run away seamen; That when please God, the next Virginia and Maryland Fleet shall arrive they will be much retarded in their loading, if some not be forced to stay in the Countrey, by reason of the seamens running away."⁹² Two years earlier Maryland secretary Thomas Lawrence had informed English authorities that the pirates' "sharing of such large sums tempts the people of these parts to go along with them, and they are a great hindrance to trade, for the seamen run from the merchant ships to go with them."⁹³ Shortly thereafter, Governor Nicholson apprised the duke of Shrewsbury that at least a hundred sailors, enticed by the

⁹¹ Ibid., 338; EJC, III, 522.

⁹² Md. A., XXIII 85.

⁹³ CSPC, XIV, #1916, p. 519.

sight of pirate booty, had deserted the Chesapeake tobacco fleet and cast their lot with the sea brigands.⁹⁴

Official anxiety regarding pirate activity and influence in the region intensified once again in the years following Queen Anne's War. In 1718 Virginia governor Spotswood reported to the Board of Trade that a former quartermaster in Blackbeard's crew, William Howard, and some other members of "that same gang" had arrived in the colony and, "assembling in great numbers with their arms," had attempted to "debauch some sailors out of the merchant ships to join them." The presence and demeanor of the buccaneers were disturbing enough, but what Spotswood found particularly disconcerting was that the "Officers of the Government could find none to assist in the disarming and suppressing that gang." Stung by what he regarded as an unconscionable failure to support the rule of law, the exasperated governor could offer no explanation for the colonists' behavior except as a further indication of their "unaccountable inclination to favour pyrates."⁹⁵

Underlying the apprehensions of governors such as Spotswood concerning the menace that sea marauders posed to shipping and trade was the fear, articulated by Governor Nicholson in 1692, that "these . . . pirates when they have

⁹⁴ Ibid., #1897, p. 511.

⁹⁵ Ibid., XXX, #800, p. 432; "William Howard, the Pirate," Tyler's Quarterly Historical and Genealogical Magazine, I (1919), 36.

spent lavishly what they have got, then they are ready, if not before, to make disturbance in the government."⁹⁶ Nicholson's anxiety clearly had not abated by 1700 when he issued a proclamation ordering all colonial officials and inhabitants to seize any "such horrid & hainous offenders" who might come ashore "as Spies to discover the State of the Country."⁹⁷ The threat of an internal pirate insurrection obviously worried Maryland officials in 1705 when, in enacting the statute outlawing Richard Clarke, they drew attention first and foremost to the accused criminal's "very wicked and treasonable conspiracy . . . to Seize upon the Magazine . . . and overturn her Majesties Government."⁹⁸

After the pirate infestation of Chesapeake waters toward the end of the second decade of the eighteenth century, Daniel Defoe expressed his conviction that official fears of a pirate uprising were fully justified. "The Pyrates had obtained such an Acquisition of Strength," he asserted, "that they were in no Concern about preserving themselves from the Justice of Laws, but of advancing their Power, and maintaining their Sovereignty, not over the Seas only, but to stretch their Dominions to the Plantations themselves."⁹⁹ Indeed, the factor which may have been

⁹⁶ Bruce, Institutional History of Virginia, II, 208.

⁹⁷ EJC, II, 85.

⁹⁸ Md. A., XXVI, 513.

⁹⁹ Defoe, History of the Pyrates, 87.

most instrumental in motivating Governor Spotswood to mount the expedition against Blackbeard was the pirate's rendezvous with another notorious sea robber, Charles Vane, at Ocracoke Inlet, North Carolina; there, the governor feared, the buccaneers were seeking to establish a permanent base of operations to replace the ones they could no longer occupy safely in the Caribbean.¹⁰⁰ Unfortunately, as usual, the pirates themselves generally remained mute on the subject. But the hint of a subversive or, at least, anarchistic impulse is evident in the contemptuous and defiant last words of one buccaneer captured and condemned during Spotswood's administration who proclaimed, as he stood upon the gallows, "Damnation to the Gov. & Confusion to the Colony."¹⁰¹

In view of the public's general toleration of, willingness to deal with, and, in some instances, active collaboration with the freebooters, royal officials in the

¹⁰⁰ Defoe, History of the Pyrates, 138; [Ellms], Pirates Own Book, 352. Writing to the Board of Trade a month after Blackbeard's defeat, Spotswood prided himself on having "prevented a design of the most pernicious consequence to the trade of these Plantations . . . that of the pyratts fortifying an Island at Ouacock Inlett and making that a general rendezvouze of such robbers" (CSPC, XXX, #800, p. 431). In a subsequent letter to one of the Carolina proprietors explaining his actions in the Blackbeard affair, the governor reiterated his point, emphasizing the "necessity of preventing the Growth of so dangerous a Nest of Pyrates in the very road of the Trade of Virginia and Maryland, as well as of your Lords'p's Province" (Spotswood, Letters, II, 275).

¹⁰¹ Cited in Shomette, Pirates on the Chesapeake, 224 and Rediker, Deep Blue Sea, 274.

greater Chesapeake must have wondered to whom the colonists might offer their allegiance in the event that pirates grew so bold as to attempt to wrest actual control of a colonial government. The deeper suspicion that the sympathies of some segments of the populace lay more with the pirates than with ruling authorities is evident in official communications expressing reluctance to release information about plans to capture pirates. When Captain Kidd was reported to be in the vicinity of the Eastern Shore in 1699, the Council of Virginia ordered colonial officials to do their utmost to seize him, but advised against publicizing the order "lest intimacon be given, to the said pirates, and they thereby Enabled to Escape."¹⁰² In the aftermath of the expedition against Blackbeard in 1718 Governor Spotswood confessed that he had exercised similar discretion in preparing for the attack because of "the many favourers of Pyrates we have in these Parts some of [whom] might send Intelligence to Tach."¹⁰³

The most revealing aspect of Spotswood's declaration, however, concerns his apprehension about announcing the plan to anyone, even the highest officials in the governments of his own and neighboring colonies. Responding to criticism that he had failed to notify the governor of North Carolina of the intended attack, Spotswood explained that "the

¹⁰² EJC, I, 422-23; VMHB, VIII, 192.

¹⁰³ Spotswood, Letters, II, 276.

business required such Secresy, that I did not so much as communicate to His Maj'ty's Council here, nor to any other Person but those who were necessarily to be employed in the Execution."¹⁰⁴

The Virginia governor may have distrusted North Carolina officials because of a history of suspected collusion with pirates dating back to the previous century. In 1691 the Carolina proprietors instructed North Carolina governor Philip Ludwell to investigate charges that the man whom he had replaced in office, Seth Sothel, accepted payment from pirates in exchange for privateering commissions.¹⁰⁵ Edward Randolph alleged that about a year later both Ludwell and Sothel "inriched themselves" in a scheme involving pirate booty.¹⁰⁶ The surveyor general even accused one of the Carolina proprietors of sheltering pirates "for which favour he was well paid by them."¹⁰⁷ By the turn of the century, the predilection of Carolina residents and their political leaders for welcoming freebooters was accepted universally. "As to Carolina," the Commissioners of Trade concluded in a 1701 report to the House of Lords, "the misbehavior and ill conduct of the

¹⁰⁴ Ibid.

¹⁰⁵ CRNC, I, 383.

¹⁰⁶ Randolph, Letters, V, 180.

¹⁰⁷ Ibid., 264; CRNC, I, 545.

governors and inhabitants . . . in harbouring and protecting . . . pirates, is notorious."¹⁰⁸

In the Blackbeard affair, Spotswood's concern focused primarily on North Carolina governor Charles Eden and his secretary of state, chief justice, and customs collector, Tobias Knight. The extent to which Eden and Knight actually collaborated with Blackbeard as accessories to piracy is a matter of considerable debate. In the immediate aftermath of Blackbeard's defeat Spotswood was careful not to offend Eden's superiors by implicating the suspect governor directly.¹⁰⁹ Nevertheless, he advised the Carolina proprietors that the "Governm't of No. Carolina admitted Thach and his Crew to make Oath" that a French ship which the pirate almost certainly seized unlawfully (after accepting the king's pardon) had been recovered as an abandoned wreck at sea and that the freebooters subsequently "went out again on the same piratical design, not without the privity of some in principal Stations in that Gov't."¹¹⁰

Spotswood's insinuations gained support from other quarters. Daniel Defoe reported that, as a result of officially condemning the French ship, the governor received "sixty Hogsheads of Sugar for his Dividend, and . . . Mr.

¹⁰⁸ Stock, Debates, II, 400.

¹⁰⁹ NCHCM, 1709-1723, xxxv.

¹¹⁰ Spotswood, Letters, II, 318-19.

Knight, twenty," while the rest "was shared among the other Pyrates."¹¹¹ Public criticism of the proprietary government also emerged from within the colony itself when a group led by prominent citizens and renowned Indian fighters Edward Moseley and Maurice Moore sought to discover tangible evidence of the government's collusion with pirates.

Refused permission to examine the colony's records, the company broke into the home of John Lovick, the province's deputy secretary (who would later be charged with embezzling the proceeds from the sales of ships condemned for illicit trade), where many of the documents were kept. Colonial officials arrested the group for unlawful entry and further charged that "Moseley did Malitiously openly Contemptuously and Opprobriously . . . Speak Publish utter and Declare . . . false Malitious Scandalous Opprobrious and seditious words and speeches" against government officials. The specific accusation levelled by Moseley which seems to have struck a particularly raw nerve among the colony's top officials was that the "Governor Cheif Justice and others with him . . . could easily procure Armed men to come and Disturb Quiett and honest men . . . but could not (tho' such a number would have done) raise them to Destroy Thach" who instead "was Suffered to go on in his Vilanies."¹¹²

¹¹¹ Defoe, History of the Pyrates, 76.

¹¹² NCHCM, 1709-1723, 199-201, 208-09; CRNC, II, 359. If, as the actions of Moseley and company imply, Lovick and Eden were partners in collusion with Blackbeard, subsequent

Alternatively, a legal scholar has argued in Eden's defense that the North Carolina governor's actions in granting Blackbeard the king's pardon, performing a marriage ceremony for him, condemning the French ship as a prize, and accepting a sizable reward in connection with that seizure all constituted justifiable and even, in some instances, requisite conduct for a man in Eden's official position.¹¹³ But most contemporary accounts and

events demonstrate that there was little honor between these alleged thieves. In 1724, several years after Eden's death, the former governor's relatives petitioned North Carolina authorities for redress against Lovick (whom Eden had designated as sole executor of his will) for having "Illegally Possesst himself of the said Governor Eden Estate" and having "fraudulently obtained the same" (CRNC, II, 536). Six years later, the colony's attorney general took up the cause and sued Lovick for failing to convey or account for the money due to Eden's family and for "Intending to defraud not only them but his Majesty likewise" (N.C. St. Arch., CCR 142, doc. 24).

¹¹³ Lee, Blackbeard, 74-84. Lee's argument rests on several points: that Eden's performance of the marriage ceremony, particularly in view of the dearth of ministers in the colony, was in "strict accord" with North Carolina law which empowered the governor or any council member to conduct such services; that, in the absence of proof that the French ship was not a derelict, as Blackbeard insisted it was, Eden was obliged to condemn the vessel; and that Eden's acceptance of the 60 hogsheads of sugar after the condemnation proceeding was simply the governor's lawful due as admiral of the colony. Blackbeard's claim of having discovered the French ship, undamaged, simply abandoned on the high seas must be considered highly dubious, though. In defense of Eden's actions, however, Lee contends that it was only after Teach's death that any evidence of wrongdoing regarding the French vessel came to light and that the pirate's story was believable because of similar occurrences over the years in the treacherous waters off the North Carolina coast (also see NCHCM, 1709-1723, xxxv-xxxvi and Defoe, History of the Pyrates, 92-94).

In particular, Lee cites the cases of H.M.S. Swift (1698, see below, chapter 7), the Patriot (1813), and the

subsequent analyses tend to agree with the assertion of an early nineteenth-century source that "the gold of Black Beard rendered him comely in the governor's eyes."¹¹⁴ Whether or not Eden actively sought to profit from piratical depredations, it appears that he maintained a cordial relationship with Blackbeard and that Spotswood had reason to suspect that his North Carolina counterpart might not cooperate in the planned attack. Daniel Defoe went so far as to assert that, despite Lieutenant Robert Maynard's caution in intercepting all the boats he met en route to Ocracoke Inlet to prevent Blackbeard from receiving advance notice of the foray, the pirate nevertheless "had Information of the Design" from none other than "his Excellency of the Province," Governor Eden.¹¹⁵ Whether

Carroll A. Deering (1921) in which vessels were found washed ashore with no one aboard. Although the last case remains a complete mystery, Lee curiously neglects to mention evidence suggesting that the crew and passengers of the Patriot (including Theodosia Alston, daughter of former vice-president Aaron Burr) may have been captured, murdered, and disposed of by pirates (Stick, Graveyard of the Atlantic, 5-8). In any event, one would think that the rarity of such incidents and Blackbeard's past behavior should have led North Carolina officials to suspect foul play in the seizure of the French ship.

¹¹⁴ [Ellms], Pirates Own Book, 338; Watson, 222. William Saunders, editor of the first series of the Colonial Records of North Carolina, wrote that Eden's reputation as governor had been tarnished "by the not groundless suspicion of having been the protector and partner of pirates" (CRNC, II, viii).

¹¹⁵ Defoe, History of the Pyrates, 79. In an appendix to A General History of the Pyrates Defoe subsequently reversed himself on the matter of the governor's complicity and instead became an apologist for Eden, citing the

or not this particular charge was true, it is clear that when Blackbeard proceeded to victimize North Carolina traders, it was Spotswood, not their own governor, to whom the merchants turned for help.¹¹⁶

Knight's complicity is considerably less ambiguous than Eden's. A 1717 letter from the church wardens and vestrymen of Pasquotank Precinct to the Secretary of the Society for the Propagation of the Gospel indicates that Knight's integrity as a colonial official was suspect even before the Blackbeard incident. Money that had been donated to the precinct for the building of a church was then in the hands of "Knight who by one artifice or other," the churchmen feared, would "in all probability deprive the Parish of that money."¹¹⁷ The suspicion that Knight had colluded with Blackbeard in condemning the French ship in order to share in the spoils apparently was confirmed when Royal Navy guardship captain Ellis Brand questioned the Carolina official after Blackbeard's defeat. According to Brand's sworn deposition, the secretary initially denied any

proprietary official's weakness in the face of Blackbeard's force of men and arms and arguing that he had proceeded according to the law in condemning the French ship. Manuel Schonhorn, editor of the most recent edition of the pirate history, has suggested that Defoe's sympathetic re-evaluation of the governor may have been influenced by Carolina merchants in London who had employed the author to write several tracts for them (Defoe, History of the Pyrates, 669).

¹¹⁶ Spotswood, Letters, II, 273.

¹¹⁷ CRNC, II, 292.

knowledge concerning the whereabouts of the French goods, but when Brand advised him "of the proofs he could bring . . . Knight owned the whole matter and the piratical Goods . . . were found in his Barn covered over with fodder."¹¹⁸ A second piece of incriminating evidence concerned a letter dated November 17, only days before Maynard's attack, which was found in Blackbeard's cabin addressed to the pirate and signed "your real friend. And Servant T. Knight." Although the letter is vague in its details (probably intentionally so), Knight did convey a sense of urgency about the need to meet as soon as possible in order to discuss "something more . . . than at present I can write."¹¹⁹

The instances in which colonists responded to official requests for assistance in the capture of pirates stand in stark contrast to the complicity of North Carolina authorities in the Blackbeard affair and previous piratical episodes. But the public support that was so conspicuous and indispensable in the capture of Clarke's accomplices and Vidal and his companions represents an anomaly in the history of maritime law enforcement in the Chesapeake. Only rarely did the many promises of reward and more frequent threats of punishment succeed in persuading colonists to

¹¹⁸ Ibid, 344.

¹¹⁹ Ibid, 343-44; Lee, Blackbeard, 146.

stop dealing with pirates and surrender them to the authorities. Throughout the seven decades or so that piracy seriously threatened the region, the only consistently effective and dependable strategy against sea marauders was a concerted show of force initiated by a determined governor and executed by a stalwart commander aboard a seaworthy and well-armed fighting ship. Such decisive action enabled Governors Nicholson and Spotswood to fashion stunning victories over menacing pirates in 1700 and 1718, respectively. But as zealous as some colonial officials were in pursuing pirates, and as successful as they might be in capturing them, all their efforts could lead to naught if provincial courts failed to convict the outlaws.

The judicial system in the colonies had already developed a reputation for leniency towards sea robbers by 1688 when English authorities prohibited the trial of pirates in the colonies without special permission.¹²⁰ The previous year the colonial proprietors felt compelled to order the suppression of certain legal procedures which had been utilized to exonerate freebooters in Carolina.¹²¹ In 1690 British officials complained to Virginia governor Lord Howard that pirates were being brought to trial in the colony too quickly to mount effective prosecutions, thereby

¹²⁰ EJC, I 107-08; Shomette, Pirates on the Chesapeake, 83.

¹²¹ Carroll, Historical Collections, I, 106; Hughson, Carolina Pirates, 26.

facilitating the acquittal of guilty freebooters by already sympathetic juries.¹²² Frustration with the reluctance of the general courts to convict pirates induced the home government to mandate in the Navigation Act of 1696 the establishment of vice-admiralty courts in the colonies, a measure intended to eradicate complicity between pirates and their colonial partners and sympathizers.¹²³

The provisions of the 1696 act took some time to implement, however, and even when applied did not always guarantee that pirates would be tried in vice-admiralty courts. In 1700 the French pirate Lewis Guittar and 90 members of his captured crew were sent back to England, according to the terms of their surrender, for trial and eventual execution.¹²⁴ But because of a technicality concerning the manner of their arrest, three of the pirates were tried by jury in the Elizabeth City County courthouse.¹²⁵ The jury found two of the defendants guilty, but acquitted the third, Francois Delaunee, because of kindnesses performed on behalf of innocent captives aboard the pirate vessel.¹²⁶ When the shocked

¹²² Bruce, Institutional History of Virginia, I, 678.

¹²³ Rediker, Deep Blue Sea, 313-14.

¹²⁴ EJC, II, 76-94.

¹²⁵ Trials of John Houghling, Cornelius Franc, and Francois Delaunee, CO5/1411, fos. 362-415.

¹²⁶ Ibid., fos. 391, 392, 394, 395.

prosecutor, Attorney General Edmund Jennings, demanded that the jurors reconsider the evidence, the colonists insisted that they had acted according to their consciences and refused to reverse their verdict. Jennings then had to arraign Delaunee on a second charge and find another group of jurors to indict, try, and condemn him to death.¹²⁷

Similar considerations motivated Maryland authorities to take summary legal action in dispatching Richard Clarke. Before Clarke's final incarceration, Governor Seymour despaired that, even if could bring the outlaw to justice, no provincial court would convict him. "Wee shall allways want Iurys to do her Matye comon Iustice on the COUNTRY borne," he lamented to the Board of Trade in 1707.¹²⁸ The following year, with Clarke in custody, he and the Maryland council acted on that conviction. Deliberating over the question of whether Clarke "being attainted of high Treason and Fellony ought to have any day in Court given him," the council and provincial court judges decided in the negative and unanimously recommended the convicted felon's speedy execution.¹²⁹

Similarly, Governor Spotswood managed to avoid any potential difficulties with provincial juries in 1718 when a vice-admiralty court in Williamsburg convicted and condemned

¹²⁷ Ibid., fos. 395, 396, 404.

¹²⁸ Md. A., XXV, 263.

¹²⁹ Ibid., 240.

thirteen captured members of Blackbeard's crew to death by hanging. But the governor was distressed by other legal developments related to the case. In the expectation that Tobias Knight would be indicted for his alleged complicity with Blackbeard, Spotswood sent Governor Eden depositions from the trial which implicated Knight as a pirate collaborator. Considering the evidence at a hearing held during a meeting of the North Carolina council in May 1719, the councilors found Knight not guilty on the grounds that four of the witnesses were "no other than foure Negroe Slaves . . . and that the other Evidences," which included Captain Brand's testimony, were simply "false and malicious."¹³⁰ Spotswood made no attempt to conceal his indignation when he wrote to the Carolina proprietors about the behavior of their colonial officials:

there are some in y't Government y't endeavor to justify Thach and his crew as very honest men, and to condemn the Officers and Men belonging to the King's Ships as Murderers for attacking and subduing them . . . And tho' I am Credibly inform'd that Affidavits are taken in No. Carolina to contradict what has plainly been proved here upon the Tryal of the pirats . . . I hope the Lords Proprietors themselves w'll give little Credit to such Clandestine Testimonials when they shall know how dark apart some of their Officers have acted, particularly one who enjoyed the post of Secretary Chief Justice, one of their Lord'p's Deputy's and Collectors of the Customs.¹³¹

¹³⁰ CRNC, II, 345-46.

¹³¹ Spotswood, Letters, II, 318-19.

Spotswood grew equally irritated with the conduct of some officials in his own colony. Prior to the November attack in North Carolina, two guardship officers -- Lieutenant Maynard (leader of the Blackbeard expedition) and his commander, Captain George Gordon -- had arrested William Howard, Blackbeard's former quartermaster, for conspiring to commit piracy.¹³² Howard retained John Holloway, a distinguished Williamsburg attorney, former naval officer for the lower James River district, and Speaker of the House of Burgesses for many years, to represent him. In 1719 Holloway initiated a suit against Maynard and Gordon on the grounds that they had falsely imprisoned Howard. Spotswood was eager to prosecute the accused pirate in a vice-admiralty court and eventually succeeded in doing so, but not before encountering "a strong opposition from some of the Council agt . . . that manner of trial."¹³³

The governor ran afoul of Holloway and popular sentiment again in 1721 when a Virginia vice-admiralty court ordered the arrest of three English shipmasters suspected of having traded with pirates in Madagascar.¹³⁴ Once more, Holloway represented the defendants and was castigated by Spotswood, as he had been previously, for being "a constant

¹³² Ibid., 353; CSPC, XXX, #800, p. 430; "William Howard," Tyler's Quarterly, I, 36.

¹³³ CSPC, XXX, #800, p. 430; EJC, IV, 384.

¹³⁴ Spotswood, Letters, II, 351; EJC, III, 550.

patron and Advocate for Pirates" and for seeking profit indiscriminately "from what vile means soever it comes."¹³⁵ Two of the defendants, Richard Herbert and Chalonce Williams, were dismissed for lack of sufficient evidence but the third, Joseph Stratton, was sent to England to stand trial as an accessory to piracy.

The guardship that transported Stratton to England departed so quickly that Spotswood was unable to deliver the indictment detailing Stratton's alleged offenses. But in a peculiar reversal of the situation that so disturbed British authorities in 1690, the accelerated pace of justice in this case was perceived by angry colonists as a deceitful ploy by the authorities to insure the defendant's conviction. As the somewhat perplexed governor confessed, "tho' I . . . am not entirely satisfied w'th Williams being discharged, yet so great is the Clamour here on Acc't of the Carrying off Stratton, without allowing him the liberty of taking w'th him ye Evidences he had for his Justification, that I durse not Venture upon a Re-examination into Williams' conduct."¹³⁶

Although Spotswood continued to anguish over the pirate threat for several years, hesitating to cross the ocean for fear of the vengeance that some buccaneers had sworn to

¹³⁵ Spotswood, Letters, II, 319, 354.

¹³⁶ Ibid.

wreak upon him, the impact on piracy in the colonies as a result of Blackbeard's defeat was much more profound than almost anyone realized at the time.¹³⁷ William Byrd still lamented in 1719 that sea "Rogues swarm in this part of the World," and Hugh Jones reported five years later that the Chesapeake required nothing so much as strong guardships to protect the colony from "pyrates who abominably infest their seas and coasts."¹³⁸ But after 1718 the region was never seriously menaced by piracy again. By the mid-1720s piracy in the Chesapeake area had degenerated into a petty, sporadic, and essentially local affair.

Blackbeard's defeat not only disheartened the pirates themselves, but marked the beginning of a gradual, though perceptible, change in the relationship between colonists and pirates. A mid-nineteenth-century historian concluded that "The death of Blackbeard and his immediate companions . . . doubtless broke the connexion with us on shore."¹³⁹ The larger connection between English pirates and the British empire had already been under strain for some time. Various political and economic factors -- the decisions of the European powers to seek advantage through trade rather than plunder, the collective realization that piracy was

¹³⁷ Ibid., 352.

¹³⁸ VMHB, XXXII, 25; CSPC, XXXIV, #210, p. 112; Middleton, Tobacco Coast, 356.

¹³⁹ Watson, Annals of Philadelphia, II, 225.

damaging the commerce of all nations, the failure of English pirates to restrict their depredations to the shipping of foreign nations, and the ability to reduce the size of shipping crews and expand cargo areas once the threat of piracy was removed -- already had precipitated a general decline in piracy in the New World.¹⁴⁰

More localized phenomena also may have contributed to an erosion of support for piracy in the Chesapeake itself. In the 1670s both Maryland and Virginia passed legislation prohibiting the further importation of convicts from England because of growing fears that such traffic constituted a threat to the peace of the two colonies. In 1718 the English government, which during peacetime could no longer absorb convicts into the army, enacted a law nullifying the colonial statutes and sanctioning the transportation of felons to the Chesapeake.¹⁴¹ The perception of an increased incidence of serious crimes, particularly where the convict population was most concentrated, was such that after only four years historian Robert Beverley reported that "the Country . . . has already suffer'd many Murthers and Robberies, the Effects of that new Law of

¹⁴⁰ Shepherd and Walton, Maritime Trade, 81; Ritchie, Captain Kidd, 236-37; Rediker, Deep Blue Sea, 74-75.

¹⁴¹ Middleton, Tobacco Coast, 165-67.

England."¹⁴² With the apprehension created by so many potentially dangerous criminals having been planted so recently in their midst, it seems likely that the colonists would have hesitated to encourage the presence of other outlaws whose motives could not always be trusted.¹⁴³

The prospect that convicts and pirates might support and cooperate with each another at the colonists' expense also must have caused some local anxiety. An equally alarming possibility, that the dangers normally posed by pirates and convicts as distinct entities might manifest themselves in combination in the same individuals, appears to have actually occurred in at least one documented instance. In 1716 British Secretary of State Peter Metheun forwarded to Governor Spotswood several lists of "rebel prisoners ordered to be transported to Virginia," one of which included the name of "Wm. Howard," almost certainly

¹⁴² Robert Beverley, The History of Virginia, in Four Parts (London, 1722), book IV, chapter 15, section 67; Middleton, Tobacco Coast, 165-69; Frederick H. Schmidt, "British Convict Servant Labor in Colonial Virginia" (Ph.D. diss., College of William and Mary, 1976), 272. For similar testimony by Governor Gooch and others, see A. Roger Ekirch, Bound for America: The Transportation of British Convicts to the Colonies 1718-1775 (Oxford, 1987), 167-68.

¹⁴³ A. Roger Ekirch has argued persuasively that, despite the apprehensions of local inhabitants, transported convicts were not responsible for a high proportion of the crime committed in the Chesapeake. Nevertheless, what is significant in this context is the colonists' belief, regardless of its accuracy, that the presence of English felons constituted a serious menace to the safety of the bay region (Ekirch, Bound for America, chapter 6, especially pp. 167-77).

the same William Howard who later served as Blackbeard's quartermaster and so agitated Spotswood with his alleged threats to the peace and security of the colony (not to mention his lawsuits against the Royal Navy officers who arrested him).¹⁴⁴

Local economic factors also may have played a part in the pirates' diminished popularity in the region. It has been suggested, for example, that well before Blackbeard's time smuggling had already begun to supersede commerce with pirates as the preferred means of acquiring European and West Indian goods at below-market prices.¹⁴⁵ And although specie continued to remain scarce, the establishment in 1730 of the tobacco inspection system, in which transfer notes functioned as an additional and more accessible medium of exchange, probably lessened the incentive for colonists to deal with pirates in order to obtain foreign coin.¹⁴⁶

Chesapeake residents also had to re-evaluate their personal relationships with pirates, associations which had always been based on the assumption that the colonists would

¹⁴⁴ CSPC, XXIX, #310 ii, p. 168. Dated August 1716, Metheun's letter also indicates that the home government had resumed the practice of transporting felons to the Chesapeake well before passage of the 1718 legislation which officially authorized it.

¹⁴⁵ Rediker, "Anglo-American Sailors," 54.

¹⁴⁶ Horne, "Tobacco Inspection Act," 107; Middleton, Tobacco Coast, 140.

be among the beneficiaries, not the victims, of the freebooters' depredations. Blackbeard, who had been so careful not to offend his provisioners in Philadelphia or, at first, his hosts in North Carolina, violated the terms of that unspoken agreement when he plundered local traders in Ocracoke Inlet. By doing so, he sowed the seeds of his own destruction and, more broadly, the demise of piracy in the greater Chesapeake. Only when the Blackbeard case demonstrated that pirates could no longer be depended on to work with the colonists and exempt them from predatory assaults does it appear that Chesapeake residents began to realize that supporting piracy might no longer serve their interests.

This change in attitude did not take hold immediately. Two years after the death of Blackbeard and his captured cohorts, members of a pirate crew who came ashore in York County and Hampton received a friendly reception from resident planters and local tavern-goers. Yet, despite their apparently non-threatening demeanor, the pirates were reported to local authorities, arrested, and executed.

Several years later there is evidence to indicate that piracy -- which in the past had been winked at, aided and abetted, and even actively pursued by the Chesapeake colonists and their government officials -- had by then become anathema in the region, even in North Carolina. After the arrest of John Vidal for piracy in 1727 an unusual

case was brought before the North Carolina general court. Roger Kenyon sued Andrew Frazier for alleging that the former had refused to assist in apprehending Vidal and for "insinuating that the sayd Roger Kenyon was ayding advising and abetting the sayd Pyrates By all which . . . The plaintiff" claimed to have been "highly injured and damnified." Kenyon's sensitivity to the "false scandalous bass detractions and aspersions" and Frazier's attempt "to defame and injure . . . his good name" by linking the plaintiff with maritime outlaws suggests that the popularity of pirates in the Chesapeake had declined to an unprecedented level.¹⁴⁷

And indeed it had. By 1730 pirates and their collaborators in the region had become, for all practical purposes, relics of a bygone era.¹⁴⁸ But although piracy

¹⁴⁷ NCHCM, 1724-1730, 448.

¹⁴⁸ Ibid. Piracy nonetheless continued to maintain a strange hold on the public imagination, a fascination which transcended economic motives and reflected a certain empathy with and sympathy for the pirates' cause, just as the colonists' propensity to acquit pirates in the colonial courts had indicated in the past. This peculiar mystique manifested itself in odd ways in the popular culture of the Chesapeake. When Blackbeard's severed head was brought to Hampton along with the surviving members of his crew, it was set on a pole as a warning. According to legend, it remained there for many years until it was taken down, fashioned into a large drinking vessel and long used at Williamsburg's Raleigh Tavern (Watson, Annals of Philadelphia, II, 221). There, we might imagine, eighteenth-century pirate aficionados imbibed from the venerable icon, recounting Blackbeard's career, and recalling his prodigious drinking feats, perhaps

had lost its allure for many of the region's inhabitants, other forms of maritime lawlessness clearly had not. Chesapeake residents continued to seize opportunities, not only as Governor Gooch observed, to engage in clandestine trade, but also to benefit illegally from the misfortunes of those whose vessels came to grief along their shores.

simultaneously emulating them. A strong sense of identification with the pirate persisted into the early twentieth century when a Virginia genealogist took pride in claiming Blackbeard as a native son (despite convincing evidence to the contrary), a spiritual descendant of what Governor Spotswood disdainfully referred to in 1718 as "the many favourers of Pyrates we have in these Parts" (Thomas T. Upshur, "Eastern Shore History," VMHB, IX, 95; Spotswood, Letters, II, 274).

CHAPTER VII

"Having not the fear of God . . . and . . . allegiance
to . . . the King not regarding": Wrecking

Contraband trading, customs fraud, and, before the 1720s, even collaborating with pirates represented illegal activities which were subject to human control and normally involved a degree of forethought, planning, and coordination. But another type of lawlessness on the maritime frontier of the greater Chesapeake differed distinctly in these respects. The looting of stranded vessels, or "wrecking," was based on serendipitous occurrences (at least from the wreckers' point of view) which generally did not result from the active efforts of the beneficiaries. Despite, or perhaps because of, the spontaneous, irregular, and infrequent nature of these episodes, the phenomenon of wrecking offers an opportunity to examine how Chesapeake residents reacted when a chance for sudden, illegal aggrandizement presented itself, particularly in remote areas far from the immediate reach of law enforcement officials. Four such incidents between 1698 and 1750, two involving English royal guardships and two involving Spanish treasure fleets, provide insight into not

only the behavioral tendencies of the colonists who exploited those accidents, but also the attitudes and capacities of the governing authorities charged with safeguarding royal prerogatives, maintaining order, and punishing the lawbreakers.

By September 1698 Edward Randolph had finished administering an oath to uphold the 1696 Act for Preventing Frauds and Regulating Abuses in the Plantation Trade to the governors of Maryland, Virginia, and Pennsylvania. For the surveyor general the occasion represented something of a personal triumph. Having been scorned for years by many Chesapeake colonists because of his reports detailing the methods and extent of illicit trade in their region, he had finally convinced royal authorities of the need for more aggressive and responsible law enforcement. Next he planned to administer the oath in North Carolina, a colony he had often criticized for being soft on pirates and illegal trade. "I am at last going to Carolina," the customs officer declared, "from whence (if it please God I live & escape the pyrates) I shall send an Account of the present State thereof to their Lords^{pps}."¹

Given Carolina's widespread and unenviable reputation as a refuge of freebooters and other lawbreakers, an even more detailed and scathing account of improprieties might

¹ Randolph, Letters, V, 192.

have been anticipated from Randolph's first visit to the province. But such a report would never be composed. Ironically, it was not piracy, but another form of maritime illegality that prevented Randolph from performing his duty. In late January H.M.S. Swift, the royal guardship that was to have transported the surveyor general, was driven out of the James River by a storm, abandoned by her crew, and stranded on North Carolina's Outer Banks where she eventually became a total loss.

The wreck of the Swift must have been profoundly disturbing to crown officials for several reasons. Not only had a royal guardship been lost due, according to Randolph, to the incompetence of her commander, but the coast now lay open to depredations by pirates and foreign privateers, not to mention exploitation by illicit traders. Perhaps most disconcerting of all, those apparently responsible for the destruction of the vessel -- or, at least, the failure to save it -- were English subjects, local residents of the Outer Banks and their colonial officials. Reports from various sources suggest that the ship might have been rescued had it not been for the rapacity of the local population and the alleged failure of the provincial government to respond effectively and expeditiously to the calamity.

Foremost among the critics of colonial officials was the captain of the grounded vessel, Nathaniel Bostock, who

complained that, despite having "used every effort to get the ship off," he had "not the assistance that might have been procured, and the Government of Carolina protested their inability, though not so good as their promise at first."² Acknowledging that Bostock initially "seemed not to doubt of saving her," North Carolina governor Thomas Harvey insisted, contrary to the captain's assertion, that his administration had been "very willing if it were possible to save the Kings Ship," and had responded to Bostock's every request for assistance.³ By late spring the question of who was responsible for aborting the attempt to refloat the ship had become academic. A survey of the wreck in June noted that the vessel was "Buried in Sand Seaven foot" and concluded that she was "irrecoverable."⁴

Besides the critical delay in initiating salvage operations and the allegation of inadequate support provided by Carolina officials, the other major complication in saving the ship concerned local inhabitants who viewed the wreck not as one of their own nation's military vessels in need of assistance, but rather as a providential windfall ripe for plunder. On this point, at least, both governor

² CSPC, XVI, #760 iii, p. 393.

³ N.C. St. Arch., CCR 188, letter of Thomas Harvey, 7/10/1698; EJC, I, 378.

⁴ Ibid., CCR 192, survey of the Swift, 6/8/1698; CCR 188, letter of Thomas Harvey, 7/10/1698; Records of the Executive Council, 1664-1734, 376, 377.

and naval commander agreed. Harvey's description of what took place after the guardship grounded as a "Riot" in which "every one endeavoured to gett something for themselves out of the spoil" essentially corroborated Bostock's report that the colonists had robbed the Swift of all her stores and provisions.⁵ Some individuals, the governor added, had been "great Rogues and opportunity made others little better."⁶

The willingness of local inhabitants, known to their contemporaries as Bankers, to waste little time in availing themselves of whatever riches the Swift had to offer suggests an occupational predisposition. In a treatise on North Carolina published in 1709, contemporary chronicler John Lawson indicated that "those that inhabit the Banks, and Sea-side" dwelled there for the express purposes of finding dead whales and "for the Benefit of Wrecks, which sometimes fall in upon that Shoar," information which helps to explain the Bankers' predatory behavior in the Swift affair and subsequent wrecking incidents.⁷

⁵ N.C. St. Arch., CCR 188, letter of Thomas Harvey, 7/10, 1698; Records of the Executive Council, 1664-1734, 375; CSPC, XVI, #518 viii, p. 253.

⁶ N.C. St. Arch., CCR 188, letter of Thomas Harvey, 7/10/1698.

⁷ Lawson, Voyage to Carolina, 157. According to North Carolina folklore, the Outer Banks town of Nags Head is so named because local residents habitually lured ships at sea to their ruin by leading horses, with lanterns dangling from their necks, up and down the beach at night, creating the illusion of a ship's light aboard a vessel sailing safely

By itself, the looting probably would not have damaged the Swift sufficiently to prevent her from being refloated, but the plunderers chose not to confine their actions to mere thievery. Subsequent court proceedings indicate that some of the wreckers "did . . . Maliciously advisedly and Wickedly contrive consult plot and conspire the said ship utterly to demolish burne and distroy."⁸ This objective they accomplished by cutting into the vessel's bottom and firing into her hull with one of the Swift's own "Great Gunns."⁹

Was it pure malevolence that motivated the wreckers to vandalize the ship? Perhaps, but it may be worth noting that "amongst . . . the Mischeife done," the pillagers took pains to incinerate official correspondence which they discovered aboard the vessel including, Governor Harvey was informed, "Some Pacquetts from Whitehall to ye Governmt in

closer to shore. Despite its diabolical appeal, the legend has no demonstrable basis in fact (Gary S. Dunbar, Historical Geography of the North Carolina Outer Banks [Baton Rouge, 1958], 122, n. 8; David Stick, The Outer Banks of North Carolina [Chapel Hill, N.C., 1958], 271-72). The persistence and plausibility of the tale, however, may derive from dimly recalled depredations of the Bankers who, if their indiscriminate attempts to plunder Royal Navy and foreign ships alike offer any indication, might have been morally capable of conceiving such an invidious and self-serving scheme.

⁸ NCHCR, 1697-1701, 217.

⁹ Ibid.; Randolph, Letters, V, 265.

America."¹⁰ Harvey's intelligence was confirmed by Captain Bostock who wrote to Francis Nicholson advising him of the burning of the Maryland governor's papers "by those barbarous people."¹¹ Why local inhabitants would feel compelled to subject the documents to what Governor Nicholson referred to as "the fiery trial" remains unclear, but some historians have speculated that they did so for fear that the papers contained information alleging or documenting their complicity with pirates.¹²

The wrecking episode took place during the first few days of February after which, according to Governor Harvey, Captain Bostock "continually pressed for despatch" in arresting the offenders until the jail became "full and very burdensome."¹³ In late March a grand jury convened especially for the purpose indicted nine individuals, eight men and a woman, tried them in the general court, and issued a warrant for the apprehension of another man, Richard Sanderson, Jr., suspected of complicity. Most of the alleged infractions were relatively petty, as in the case of Patrick Maccoon who was accused of pilfering "one Rug one

¹⁰ N.C. St. Arch., CCR 188, letter of Thomas Harvey, 7/10/1698.

¹¹ CSPC, XVI, #760 iii, p. 393.

¹² Ibid., #760, p. 387; Rankin, Golden age of Piracy, 58; Shomette, Pirates on the Chesapeake, 96.

¹³ N.C. St. Arch., CCR 188, letter of Thomas Harvey, 7/10/1698; Records of the Executive Council, 1664-1734, 377.

pair of Drawers two pair of Wollen Briches etc. to the value of threescore shillings."¹⁴ The very detailed accounting of the goods taken by each defendant seems to leave little doubt, however, as to their participation in the pillaging. Nevertheless, the juries found six of the nine defendants not guilty.¹⁵

Curiously, the critical factor in the jury's determination of guilt or innocence apparently was not proof of having despoiled the wreck, but rather the value of the goods taken. One person who had stolen L10 worth of plunder and four others who had helped themselves to items appraised at less than a single pound were all cleared of their charges.¹⁶ Henry Hamond's cache of goods, deemed to be worth 50 pounds sterling and 40 shillings, had the highest estimated value among those exonerated.¹⁷ The disparity between Hamond's verdict and sentence and those issued to two other men, Thomas Young and Roger Snell, is quite striking. Although Young and Snell were accused of removing provisions valued at less than L10 more than Hamond had taken, they were not only convicted of a felony, but

¹⁴ NCHCR, 1697-1701, 193.

¹⁵ Ibid., 191-97.

¹⁶ Ibid., 193, 195-97.

¹⁷ Ibid., 191-92.

sentenced to "be burnt in the brawn of the Left Thumb with a hott Iron having on it the Letter T."¹⁸

The harshest sentence of all was reserved for Captain Anthony Dawson who, "having not the fear of God before his eyes and his alegiance to . . . the King not regarding," was accused of masterminding the effort to disable the Swift and "Imbezell purloyne and convey away" all of her "sailes Rigging apparell furniture and stores into his possession."¹⁹ Despite Governor Harvey's subsequent claim that Dawson had acted only with the honorable intention of securing the vessel "as a Wreck for the proprietors use," the jury evidently disagreed, finding the defendant guilty as charged and ordering that Dawson "be carryed . . . to the place of Execution and there be hanged by the neck till he be dead."²⁰

The severity of the sentences meted out to Dawson, Snell, and Young appears to sustain Governor Harvey's contention that the offenders received "judgmt . . . to the very utmost of their demerit," but further developments and a more impartial review of the proceedings suggest otherwise.²¹ Not only had six of the looters been let off

¹⁸ Ibid., 192-93, 195.

¹⁹ Ibid., 197.

²⁰ Ibid.; N.C. St. Arch., CCR 188, letter of Thomas Harvey, 7/10/1698.

²¹ N.C. St. Arch., CCR 188, letter of Thomas Harvey, 7/10/1698.

scot-free, but, of those convicted, Roger Snell was granted a twenty-year suspension of his sentence "upon Consideration" of his being a "very aged and poor man" -- in effect, a lifetime reprieve -- and Anthony Dawson's death penalty was commuted to exile from the colony, a display of clemency which prompted Edward Randolph to complain bitterly that "The Chief Offender was Banished onely."²² Moreover, Richard Sanderson "the Younger," who had been "detained in prison on suspicion of being confederate with . . . Dawson and others in Riffling" the warship, was discharged without penalty or trial.²³ Sanderson may have been innocent, of course, but being the son of a council member (who was also one of the more influential men in the province) and Dawson having formerly served both on the council and as the colony's attorney general probably did not hurt their respective cases.²⁴

Having adjudicated the looting indictments and not wanting to appear derelict in their duty, the members of the grand jury convened again in May and arraigned Henry Hamond, Thomas Young, and "One Negro of . . . Capt. Anthony Dawson" on the separate charge that they "did spoil and deface" the

²² NCHCR, 1697-1701, 195, 197, 319; Randolph, Letters, v, 265.

²³ NCHCR, 1697-1701, 191, 203-04, 218.

²⁴ Ibid., lvi, 199; Records of the Executive Council, 1664-1734, 368; John L. Cheney, ed., North Carolina Government 1585-1979 (Raleigh, 1981), 13.

Swift's hull by cutting into it and that they "did . . . with one Great Gun shoote through etc."²⁵ Not surprisingly in view of the previous proceedings, the general court jury found Hamond and Young not guilty, but, perhaps in an effort to compensate for the lenient sentences ultimately administered to all other defendants, they did find the black man "guilty of firing the Gun." Disregarding the obvious fact that no individual could have removed and fired the gun by himself and overlooking the mitigating circumstance that the slave almost certainly was acting on his master's orders in any event, the court ordered that the Negro "be punished by receiving thirty one stripes on his bare Back during the Courts Sitting."²⁶

Although the appearance of wrecks on the Carolina coast was sporadic and essentially unpredictable, it was not unanticipated. As early as 1679 the Carolina proprietors had appointed a "receiver of wrecks," in this case the venal customs collector Robert Houlden, to secure for their benefit derelicts in which their charter entitled them to an interest. The proclamation announcing Houlden's appointment explicitly warned potential salvors against usurping his prerogative, taking pains to "strictly Injoine all persons whatsoever from Intermedling" therein.²⁷ The English

²⁵ NCHCR, 1697-1701, 216-17.

²⁶ Ibid., 217.

²⁷ CRNC, I, 240.

crown also had a pecuniary interest, normally one-tenth the value of all salvaged goods, in wrecks and other "ejections of the sea" recovered within the empire.²⁸ The only relevant English statute at the time appears to have been the thirteenth-century act entitled "What shall be adjudged Wreck of the Sea, and what not," which basically asserted the crown's right to wrecked effects for which there was no legitimate claim of ownership.²⁹

The extent to which the Bankers were aware of royal or proprietary restrictions on their freedom to salvage wrecks is uncertain. However, it may be worth noting that, in pleading not guilty to charges which clearly had some validity, none of the defendants is recorded as having claimed ignorance of the law as an excuse for their conduct.³⁰ There is no doubt, however, that North Carolina authorities were cognizant of the relevant laws and edicts and, if the charges against the Swift's looters offer any indication, they expected the colonists to be as well. The indictments issued in each case clearly defined the

²⁸ Ibid.; Crump, Colonial Admiralty Jurisdiction, 156; Stick, Graveyard of the Atlantic, 3. Inspired by New England entrepreneur William Phipps's successful salvage of a sunken Spanish treasure ship off the Caribbean island of Hispaniola, the English crown under James II increased its percentage from one-tenth to one half in order to raise additional revenues (Crump, Colonial Admiralty Jurisdiction, 156).

²⁹ Pickering, English Statutes, I, 79.

³⁰ NCHCR, 1697-1701, 192-94, 196-97.

behavior of the accused as having been contrary to "the forme of the statute."³¹

Moreover, the severity of the original sentences handed down with the four convictions (i.e., those issued before commutation) unmistakably signifies that those responsible for administering justice in the colony understood the gravity that English custom attached to the alleged offenses. So serious was Anthony Dawson's crime considered, in fact, that the records of North Carolina's higher court from 1697 to 1708 contain only one other comparable condemnation, a death sentence issued to a black slave found guilty of murder.³² The punishment of branding was prescribed with almost equal rarity, only two such sentences having been meted out between 1697 and 1723, both for manslaughter.³³

Besides its impact within the colony itself, the Swift affair also had repercussions in the realms of intercolonial and imperial politics. Part of the "great trouble charge & vexation" to which Thomas Harvey complained about having been subjected as a result of the episode was an attempt by Virginia governor Andros to appoint a judge who would have jurisdiction over admiralty matters in North Carolina.

³¹ Ibid., 192-97.

³² NCHCR, 1697-1701 and NCHCR, 1702-1708, passim; NCHCR, 1697-1701, 262, 276.

³³ NCHCR, 1697-1701, and NCHCR, 1702-1708, passim; NCHCR, 1702-1708, 34; NCHCM, 1709-1723, 283-84.

Harvey managed to avoid having to comply with Andros' wishes (which the proprietary official regarded as a "great incroachment upon the powers Granted to the proprietors in their Charter") in this instance, but expressed concern (justifiably, as subsequent developments would demonstrate) about the ability of North Carolina officials to resist such initiatives in the future.³⁴

While proprietary officials temporarily succeeded in fending off the attempt to impose admiralty jurisdiction from without, they could not avoid criticism and adverse consequences in their relationship with the home government as a result of their handling of the prosecution of the royal warship's plunderers. In his 1701 memorial "High Crimes & Encreasing Misdemeanors in the Proprietary Colonies" Edward Randolph used the Swift episode as a convenient club with which to batter North Carolina on the charter resumption issue, pointedly reminding crown officials that it was during a proprietary administration that Outer Banks inhabitants had pillaged a royal guardship, "Fired Great Gunns into her and Disabled her from Getting off." Randolph cleverly exploited the incident to support his longstanding contention that the North Carolinians had "no Settled Governmt amongst Them" and that royal authorities therefore ought to assume control over what the

³⁴ N.C. St. Arch., CCR 188, letter of Thomas Harvey, 7/10/1698.

surveyor general now could portray more easily as a lawless and chaotic colony which offered sanctuary to "Pirates, runaways, and illegal Traders."³⁵

If the punitive actions, such as they were, taken by North Carolina authorities against the wreckers had any sort of deterrent influence on the population of the Outer Banks in the aftermath of the Swift's destruction, it was barely discernible a decade later. In an episode remarkably similar to the Swift affair, another Royal Navy ship, H.M.S. Garland, ran aground on a sand bank just south of Currituck Inlet in late November 1709 upon her return to the Virginia capes from cruising along the coast.³⁶ The government's normal instinct to save its vessels was heightened by the chronic shortage of guardships on the Virginia Station, particularly in view of the danger of imminent attack by foreign privateers during Queen Anne's War.³⁷

Virginia authorities responded quickly to the request for aid from the Garland's commander, Captain Isaac Cook. Acting governor Edmund Jennings dispatched two manned sloops to the scene along with a letter of credit to ensure Cook's ability to obtain assistance from North Carolina officials.³⁸ Jennings later reported, however, that it

³⁵ CRNC, I, 547; Randolph, Letters, V, 265.

³⁶ CO5/1363, pp. 173-74; CSPC, XXV, #21, p. 5.

³⁷ EJC, III, 229.

³⁸ Ibid., 228.

had been too late in the season to initiate recovery operations and that further attempts at salvage would have to be postponed until spring.³⁹ Meanwhile, Virginia officials nervously awaited the arrival of the Garland's replacement, H.M.S. Enterprise.⁴⁰

The interlude between the grounding of the Garland and the appearance of the Enterprise proved to be difficult and costly, not only from the standpoint of defending against ship seizures by foreign privateers, but also in terms of saving the Garland from destructive natural and human agents.⁴¹ Virginia's newly appointed royal governor, Alexander Spotswood, reported to the British admiralty in September 1710 that before the Enterprise could reach North Carolina to rescue the Garland, "the Weather and the Country People had broke her to pieces, and the latter had carryed away whatever was portable."⁴² Several years later Spotswood modified his account somewhat to reflect the fact that some local residents actually had been instrumental in recovering most of the stores that were salvaged, but this effort the governor attributed less to the selfless motivation of loyal crown subjects than the anticipation of

³⁹ CSPC, XXV, #21, p. 5.

⁴⁰ Ibid. and #154, p. 57.

⁴¹ Ibid., #349, p. 171.

⁴² Spotswood, Letters, I, 34-35.

"great rewards" that the guardship commander had promised.⁴³

Like Edward Randolph a decade earlier, Spotswood and his immediate predecessor, council president Jennings, were highly critical of the North Carolina government's handling of the salvage operations. Virginia officials grew particularly irritated with the behavior of one of their southern neighbor's customs collectors, William Swann, who had the responsibility of safeguarding the salvaged effects until they could be delivered to admiralty representatives.⁴⁴

An unsigned letter to Swann, dated April 1710 and most likely written by acting governor Jennings, not only charged that the collector had "sold and converted" to his own use many recovered "Stores of a considerable value," but that he "likewise pretended to detain all the rest . . . of a far greater Value" as a salvage fee.⁴⁵ Swann was reminded

⁴³ Ibid., II, 23.

⁴⁴ The Virginia correspondence concerning Swann refers to him by last name only, but a signed accounting of "sundry Expences Disbursements and wages Expended on ye Salvage of . . . her Majesties Ship Garland" in the North Carolina State Archives identifies "Wm Swann" as the colonial official in charge of the operation. (N.C. St. Arch., CCR 142, "Vice-admiralty Papers," I, 9, 11/28/1709).

⁴⁵ CVSP, I, 139. Though not quite as damning as the Virginia allegations, Swann's own record of the expenses incurred during the salvage operation nonetheless confirms that he was the principal beneficiary of payments made to those who contributed goods and services to the effort. Out of a total disbursement of slightly over L100, the collector listed himself as the direct recipient of more than L44,

that the stolen provisions were "absolutely necessary for . . . refitting" the recently arrived replacement guardship "to enable her to go agst ye Enemy's Privateers" and the letter demanded that the customs officer return the goods as soon as possible, threatening "Condign punishment" should he fail to do so.⁴⁶

The author expressed absolute certainty regarding Swann's guilt and suggested that, if a sense of duty and conscience would not impel him to "Do her Maj^{ty} that right which is due to the meanest person on such unfortunate occasions, surely y^e Consideration of y^r own safety will be of some force to engage you."⁴⁷ But it was not. Half a year later, Governor Spotswood complained to the admiralty that, although a considerable quantity of provisions from the wrecked ship had been salvaged, there was "no doubt but many more of the Stores were saved, and some of them of the best value putt into the hands of one Swan, a Collector in Carolina, but there's no account to be had of them now."⁴⁸

which he charged mainly for his "trouble Care & attendance" at the wreck site and for his "own Salvage" of a length of ship's cable (N.C. St. Arch., CCR 142, "Vice-admiralty Papers," I, 9).

⁴⁶ CVSP, I, 139.

⁴⁷ Ibid.

⁴⁸ Spotswood, Letters, I, 34-5. Although Virginia authorities roundly castigated Swann for his venal behavior, the collector's reputation does not seem to have suffered among fellow North Carolinians. Listed as a representative for the precinct of Currituck in the colonial assembly of 1709, he was elevated by fellow delegates to the post of

Strangely, neither the Colonial Records of North Carolina nor the North Carolina higher-court registers contain any reference to the Garland incident, which suggests that the proprietary government undertook no prosecutions against either the wreckers or Swann. Why this would have been the case can only be conjectured, but the absence of any mention of the event in the colony's official documents implies either that provincial officials were powerless to take any punitive action, or worse, that they may have collaborated actively in a cover-up.

Virginia governor Spotswood's correspondence makes it clear that he, for one, regarded Swann's behavior in connection with the salvage operation not simply as the petty machinations of a corrupt customs collector, but as a manifestation of the pervasive venality and lawlessness that characterized North Carolina's legal and political administration in general. Following Edward Randolph's example once again, Spotswood took advantage of the opportunity to castigate the proprietary colony in communications with crown authorities. Not only had Swann made off with valuable property saved from the Garland, the Virginia governor lamented, but there was nothing that conscientious royal officials could do about it. Spotswood

Speaker within two years (William S. Powell, ed., Dictionary of North Carolina Biography, vol. VI [University of North Carolina Press, publication pending]; Cheney, Carolina Government, 29, 31).

complained that it was neither in his power "nor in the power of any body else . . . in these parts to recover any part of what has been so embazzled in a Country where there's scarce any form of Government."⁴⁹

In fairness to the Carolinians, it appears that residents of the proprietary colony were not the only ones to cast a covetous eye on the guardship's salvaged effects. In December 1711 Virginia's House of Burgesses denied the claim of George Luke, the dissolute collector of the lower James River district, to be reimbursed for "old Iron furnished for the Use of y^e Battery at point Comfort." In rejecting the petition, the burgesses hastened to remind Luke that the iron did not belong to him, but had been "saved out of her Majestys Shipp the Garland" and that the Lords of Admiralty would "certainly demand the price of it according to the valuation."⁵⁰

In 1713 English authorities undertook the first major updating and elaboration of the laws pertaining to wrecks since the thirteenth century. The extent to which the Swift and Garland episodes inspired the revision is difficult, if not impossible, to assess. Certainly other, similar incidents had occurred throughout the empire in the preceding years. But the similarity of the criminal acts

⁴⁹ Spotswood, Letters, I, 34-35.

⁵⁰ JHB, 1702/03-1712, p. 341.

described in the statute and the applicability of specific prohibitions and penalties to the behavior of the North Carolinians in 1698 and 1709-10 is remarkable nonetheless. The preamble to the law explains that its creation had been occasioned by "great complaints . . . that many ships . . . have unfortunately . . . run on shore, or been stranded on the coasts thereof; and that such ships have been barbarously plundered by her Majesty's subjects, and their cargoes embezilled, and when any part thereof has been saved, it has been swallowed up by exorbitant demands for salvage."⁵¹

The legislation itself stipulated that anyone attempting to board a wrecked ship or remove any goods without the consent of the commander or the local customs officer would be required to make "double satisfaction to the party grieved."⁵² Any person caught with provisions stolen from the vessel who refused to deliver them immediately to the owner would be required to pay triple the value of the goods. Whoever made, or assisted in making, "any hole in the bottom, side, or any other part of any ship or vessel so in distress" would be considered guilty of a felony without benefit of clergy. The statute further decreed that if, in connection with a wrecking incident,

⁵¹ 12 Anne Stat. 2. c. 18, Pickering, English Statutes, XIII, 121.

⁵² Ibid., 123-24.

"any officer of the customs . . . shall, by fraud or wilful neglect, abuse the trust . . . reposed in him," such an offender would pay triple damages to the injured party, lose his job, and never be eligible for employment in the customs service again.⁵³

Like the Swift and Garland affairs, the circumstances surrounding two subsequent wrecking incidents, one in 1715 and one in 1750, offer striking parallels with one another. Both involved the stranding or sinking of vessels from Spanish treasure fleets as a result of violent storms. Both occurred two years after the formal conclusion of hostilities between England and Spain. As a result, each episode tested the will of English authorities to maintain the peace -- even at the expense of antagonizing British subjects -- by restraining the colonists, through the threat of force or otherwise, from plundering the foreign vessels.

The contrasts between the two incidents are also noteworthy. The first episode did not occur in the Chesapeake region at all, but on the coast of Florida, and the potential lawbreakers of greatest concern to British officials were not local residents, but Caribbean pirates. The ships and wrecks of the 1750 fleet, on the other hand, were strewn along the shores of all three Chesapeake colonies, requiring the provincial governments to prevent

⁵³ Ibid., 124-25.

their own and, in some cases, neighboring seaside inhabitants not only from plundering the foreign vessels, but, where there were survivors, from attacking their crews and passengers as well. The events of 1715 and 1750 serve to demonstrate that, while the rapacious impulses of Chesapeake colonists toward shipwrecks on their shores persisted, apparently unabated, from the 1690s, by the mid-eighteenth century the willingness and ability of colonial governments to control wreckers and potential pillagers had improved significantly.

In October 1715 Governor Spotswood included, as a postscript in a letter to English authorities, "advice of a considerable event in these parts, that the Spanish Plate Fleet richly laden, consisting of eleven sail, are, except one, lately cast away in the Gulph of Florida to the southward of St. Augustin."⁵⁴ Since the incident occurred so far to the south, it might appear that its impact on the Chesapeake would have been marginal, but Virginia governor Spotswood had legitimate reasons for concern. English opportunists from Jamaica, including pirates, soon descended on both the wrecks and the Spaniards who had been dispatched by their government to salvage the treasure.

An emissary from the governor of Cuba levelled charges, later supported by a Royal Navy guardship captain, a

⁵⁴ CSPC, XXVIII, #651, p. 317; Spotswood, Letters, II, 132.

colonial secretary, and several merchants, that the crews of two British sloops landed on the coast of Florida and, at gunpoint, stole more than 120,000 pieces of eight from the Spanish salvage camp, allegedly "proceeding so far in their tyrannical covetousness that they put those they met to . . . punishment and torment, for to know where they had hid their treasure."⁵⁵ Worse yet, in terms of Anglo-Spanish diplomacy, the predators apparently had been sanctioned by the governor of Jamaica who had issued commissions to "fish" the wrecks, under the pretext of cruising against pirates in the area, in return for a share of the Spanish booty.⁵⁶

Spotswood clearly was less concerned about the depredations committed against the Spaniards, however, than the threat posed by the presence of so many pirates in a highly strategic area not too far from his own colony.⁵⁷ In July 1716, the same month he jailed one of several English pirates who had attacked the Spaniards and then made their way north to Virginia, the governor begged the Lords of Admiralty to "consider the dangerous Consequences of suffering such a Nest of Rogues to settle in the very mouth of the Gulph of Florida where . . . the whole trade of this Continent may be endangered."⁵⁸

⁵⁵ CSPC, XXIX, #158, #158 i-vii, pp. 78-82.

⁵⁶ Ibid., #308, pp. 163-64.

⁵⁷ Ibid., #240, p. 139; #408 ii, iii, p. 210.

⁵⁸ Ibid., #240, p. 140; Spotswood, Letters, II, 168-69.

Some historians have claimed that Spotswood was motivated, at least in part, by a concern that the activities of the wreckers would threaten British relations with Spain, the two nations only recently having concluded a peace treaty to end Queen Anne's War.⁵⁹ That may have been true, but, on the other hand, the governor was not so worried about relations with the Spanish that he was unwilling to risk them by exploring the possibility of recovering some of the treasure for the British crown. Besides informing his superiors about the wreck of the 1715 fleet, Spotswood also suggested that the incident might "be improved to the Advantage of his Maj't's Subjects if encouragement be given to attempt ye recovery of some of that Imense Treasury."⁶⁰

Acting on his own initiative in July 1716, the governor instructed Harry Beverley, the master of a Virginia sloop bound from the Chesapeake to the Caribbean, to gather information on pirates and Spanish salvage operations in the Gulf of Florida and to recover any treasure that he could, provided that it lay within or near British possessions.⁶¹ At the end of May the following year, Spotswood reported

⁵⁹ Rankin, Golden Age of Piracy, 86; Shomette, Pirates on the Chesapeake, 179-80.

⁶⁰ Spotswood, Letters, II, 132; CSPC, XXVIII, #650, p. 317.

⁶¹ Spotswood, Letters, II, 170; CSPC, XXIX, #240 iii, p. 142; Dodson, Alexander Spotswood, 221.

that Beverley had the misfortune to encounter a Spanish warship whose crew boarded the sloop, "beat and stript all the men . . . plundered and carry'd off all the cargo, and brought the men prisoners on board the man of war, where they were forced naked as they were to work as the Spaniards ordered them." The governor implored crown authorities to seek the release of Beverley and his crew and begged them to consider "on how precarious a footing all the Trade of the British . . . to the Plantations must be, if they are thus to ly at the mercy of the Spaniards, liable to be seized . . . insulted and imprisoned."⁶²

In conversation with William Byrd fifteen years later, Spotswood once again held forth on the "Insolences of the Spaniards" and expressed his disappointment with the British government which, he believed, had endured the insults "so tamely." The former governor also displayed a continuing and active interest in Spanish treasure, informing Byrd that "both the Galleons and Flota," the two annual treasure fleets, "being confin'd to Sail thro' the gulph, might be intercepted by . . . Stationing a Squadron of Men of War" at a strategic point near the Florida Channel.⁶³

⁶² CSPC, XXIX, #595 iv, pp. 319, 320.

⁶³ John S. Bassett, ed., The Writings of Colonel William Byrd of Westover in Virginia Esquire (New York, 1901), 368.

When war between England and Spain broke out again later that decade, British naval authorities appear to have heeded Spotswood's advice. So seriously did the Royal Navy manage to interrupt the yearly sailing of the flotas during the wars of Jenkins' Ear and the Austrian Succession that only three such convoys, under the protective escort of heavily armed vessels of Spain's Havana squadron, reached the Iberian Peninsula between the outbreak of war in 1739 and its conclusion in 1748.⁶⁴ That the English continued to covet the fabulously wealthy ships throughout the war is attested to by a captain in Britain's Caribbean squadron who, eager to intercept the 1748 treasure fleet, regretted the capture of an "advice-boat from Old Spain, which damp'd our spirits with the unwelcome news of a peace."⁶⁵

While the cessation of hostilities may have been unpopular with British naval officers, it was welcomed heartily in Spain where the chronically ailing economy depended heavily on the revenues which the arrival of the flota provided. So precarious was Spain's economic plight and so indispensable were the treasure fleets to relieve the financial strain that in 1753 the mere delay of the flota occasioned nine bankruptcies in Madrid, Cadiz, and

⁶⁴ J.C.M. Ogelsby, "Spain's Havana Squadron and the Preservation of the Balance of Power in the Caribbean, 1740-1748," Hispanic American Historical Review, XLIX, 481.

⁶⁵ Gentleman's Magazine, XVIII, 523.

Seville.⁶⁶ Not surprisingly, then, even after the fighting ended in 1748, the Spaniards cautiously refused to entrust the command of the precious treasure convoys in 1749 and early 1750 to anyone but a rear and vice-admiral.⁶⁷

It may be a significant indication of the benign state of Anglo-Spanish relations by mid-1750 that the responsibility for the safe arrival of the fleet was given not to a top-ranking naval officer, but to an expatriated Irishman in the Spanish service, Don Daniel Huony.⁶⁸

Accounts of the size of Huony's 1750 fleet range from as few as six vessels to as many as thirteen, but the actual number probably was eight: La Mariana, Nuestra Señora de los Godos, Nuestra Señora de Soledad, Nuestra Señora de Guadalupe, El Salvador, St. Peter (San Pedro), a brigantine not identified by name, and Huony's 50-gun flagship, La

⁶⁶ Ibid., XXIII, 387-88.

⁶⁷ Ibid., XX, 283.

⁶⁸ Md. A., XXVIII, 482. The commander's name is represented variously as Huony, Huoni, Huonij, Mahoney, Ohoney, Otlony, and Onness. The most reliable references, that is those found in official Spanish documents, identify the commander as either "Huony" or "Huoni" (Archivo General de Indias, Seville [hereafter cited as AGI], "Consulados," legajo 856, legajo 861, fos. 79, 81). The former spelling is used most often and this is how the captain's name appears as the signatory of one letter to Captain Juan Manuel de Bonilla (also of the 1750 fleet) as well as another to English colonial authorities transcribed and printed in the Archives of Maryland (AGI, "Consulados," legajo 861, fo. 170; Md. A., XXVIII, 494).

Galga.⁶⁹ As usual, the cargoes consisted of a great quantity and variety of American riches including gold and silver bullion, minted silver coins, cochineal, indigo, and, aboard the Galga, "some thousands of pounds worth of Mohogany . . . for . . . the King of Spains pallace Doors & Windows &c."⁷⁰

The man-of-war also carried another cargo, not nearly so valuable from a commercial standpoint, but extremely volatile from a political one: English prisoners, 30 according to the most reliable account, who, along with their vessels, had been seized by Spanish "guarda costas" (literally, coast guards, but, in reality, Spanish privateers and their crews) and brought to Havana for alleged contraband trafficking.⁷¹ In addition to these involuntary travelers, one of the vessels, probably the Godos, carried "several Passengers . . . of Distinction" including the governor of Havana and his family, as reported

⁶⁹ AGI, "Consulados," legajo 861, fo. 81; S.C. Gaz. 10/29-11/5/1750; Md. Gaz., 9/5/1750; C05/1338, reports of Nathaniel Walthoe, 9/28/1750, and Governor Thomas Lee, 10/3/1750. Numerous accounts contain the names and identify the captains of these vessels; Walthoe's is the only English report which lists all the ships enumerated here and no others. The St. Peter was one of two Portuguese "annual ships" permitted to trade with the Spanish American colonies and the only foreign-owned vessel in the fleet.

⁷⁰ AGI, "Consulados," legajo 861, fos. 37-38; Md. A., XXVIII, 482.

⁷¹ Va. Gaz., 9/5/1751.

by one source, and/or the "viceroys out of Chili and his lady" according to another.⁷²

The fleet departed from Havana bound for Cadiz on August 18. About a week out, a violent storm, described by some as a hurricane, struck the vessels and raged for six or seven days. The fury of the tempest tore away masts, rigging, and tillers, strained ships' timbers, and caused the vessels, whose decks were constantly awash, to leak from below as well. Guns and merchandise were heaved overboard to lighten the load and decks were breached so that the water on board could drain into the pumps. As the holds began to fill up, sailors frantically manned the pumps in a desperate effort to save the ships and themselves.⁷³

When sea and sky finally calmed, the three ships still afloat -- the Mariana, St. Peter, and Godos -- managed to reach a safe haven at Norfolk, Virginia. The governor's appointed inspectors found the last two in such a battered condition that they condemned the vessels as unfit to put to

⁷² Pa. Gaz., 9/6/1750; Md. Gaz., 9/5/1750; PRO C05/1338, 8/30/1750.

⁷³ Pedro Pumareyo characterized the storm as "un furioso Uracon" (AGI, "Consulados," legajo 861, fo. 81). The most detailed descriptions of the tempest are the Spanish accounts of Captains Pumareyo and Bonilla and English versions attributed to Thomas Wright and Captain Pumareyo (Pumaryo), both of the Godos (AGI, "Consulados," legajo 861, fos. 79, 81-82, 93-94; S.C. Gaz. 10/29-11/5/1750; EJC, V, 333-34).

sea again.⁷⁴ Three other ships ended up near, on, or under the shores of North Carolina. Despite having sustained considerable damage, the Guadalupe succeeded in anchoring safely within Ocracoke Inlet.⁷⁵ The Soledad was driven ashore twelve leagues to the south. All the people and cargo were saved but the ship, apparently in no condition to sail, was abandoned.⁷⁶ The Salvador's passengers and crew were considerably less fortunate. Only three men and a boy survived the violent grounding either at Cape Lookout or near Topsail Inlet. Less than a month later, little evidence of the tragedy remained. The ship reportedly was "stove to pieces and . . . covered with 7 or 8 feet sand."⁷⁷

The last two members of the fleet stranded well over a hundred miles north of Ocracoke Inlet along the Eastern Shore of Virginia and Maryland. The unidentified brigantine, commanded by Don Antonio Barroso, ran aground some six leagues to the north of Cape Charles on or near one of the barrier islands in Northampton County, Virginia.⁷⁸

⁷⁴ Colonial Williamsburg Research Center, Microfilm Collection "Virginia: Colonial Papers," #M.1180.3, Folder 43, nos. 4 and 5.

⁷⁵ S.C. Gaz., 10/29-11/5/1750; CRNC, IV, 1300.

⁷⁶ S.C. Gaz., 10/29-11/5/1750 and CRNC, IV, 1305.

⁷⁷ CRNC, IV, 1305.

⁷⁸ CO5/1338 9/28, 1750; "Virginia: Colonial Papers," microfilm #M.1180.3, Folder 43, #7a.

Farthest north of all, the powerful Galga lay helpless, having lost her rudder on the Chincoteague Shoals and grounded, with seven feet of water in her hold, off Assateague Island near the Maryland/Virginia border.⁷⁹

Not long after the warship came to rest, Captain Huony set about the tasks of removing the most valuable and accessible part of the cargo and transporting it to the relative safety of dry land. Two men drowned in this effort as did two others who, "attempting to swim ashore," obviously with more personal objectives in mind, "had tied so much Money round their Waists, that they sunk with it."⁸⁰ The rest of the Spaniards succeeded in transferring themselves and several heavy chests of silver safely to shore and from there to Snow Hill, Maryland, where they hired two sloops to convey them and their goods to Norfolk.⁸¹

Not all of the Galga's passengers lamented her fate. The Spaniards' tragedy proved to be a blessing for the English prisoners, all of whom, with the exception of one who drowned in the attempt to reach shore, gained their freedom when the vessel wrecked.⁸² Like the English captives, residents of the Eastern shore and the Outer Banks

⁷⁹ Md. A., XXVIII, 493.

⁸⁰ Md. Gaz., 9/12/1750.

⁸¹ Ibid.; Md. A., XXVIII, 481.

⁸² Md. Gaz., 9/12/1750; Pa. Gaz., 9/6/1750.

shed no tears over the Spaniards' misfortunes. On the contrary, they quickly availed themselves of the opportunity to profit from the mishap just as many of their ancestors had done in similar situations in the past. Inhabitants of the vicinity where the Galga came to grief soon began "fishing" the wreck, within which they reportedly "found a considerable booty."⁸³

As usual, colonial authorities had to decide who was entitled to salvage the wrecks, how to dispose of the effects, and what rights and assistance to accord the Spaniards. The statute most relevant to the disposition of goods salvaged from the wrecks seems to have been 12 Anne Stat. 2. c. 18., the act of 1713 which had been made perpetual by another law passed three years later.⁸⁴ As recently as 1749, the North Carolina statutes listed 12 Anne Stat. 2. c. 18 and its predecessor, 3 Edward I c. 4, as the canons of English law pertaining to wrecks that had been adopted by the colony.⁸⁵

In addition to the English statutes, several clauses from the 1670 Treaty of Madrid between Spain and England

⁸³ Md. Gaz., 9/12/1750.

⁸⁴ 4 Geo. II Stat. 1. c. 12; Pickering, English Statutes, XIII, 121-25, 475-76.

⁸⁵ CRNC, XXIII, 318, 326. Oddly enough, though, North Carolina agent James Abercromby later argued, in defense of Governor Gabriel Johnston (see below), that "this statute," 12 Anne Stat. 2. c. 8, "does not extend to the Plantations" (James Abercromby to "Rich^d Nev: Aldworth Esqr," C05/304, fo. 91, 2/17/1750/1, N.C. St. Arch.).

were particularly applicable.⁸⁶ In fact, colonial agent James Abercromby would later cite the tenth article of this accord in defense of North Carolina governor Gabriel Johnston's actions regarding the Guadalupe.⁸⁷ The bilateral agreement specifically provided that "if the subjects of . . . either confederate shall be driven by storm or forced . . . into the rivers, bays, estuaries, or stations of the other confederate, or to land upon any coasts in America, they shall be received there kindly and with entire humanity . . . and shall be treated with benevolence."⁸⁸ Certainly Daniel Huony expected to be treated that way. Pleading for justice in the recovery of goods pillaged from the Galga, Huony pointed out to Maryland authorities that his appeal was "Just and Conformable to the Amity and treaties Subsisting between Our Royal Masters."⁸⁹ Officials in all three colonies of the greater Chesapeake seemed to agree. Virginia's acting governor, Thomas Lee, for example, considered that the "indulgences" he granted the Spaniards "were due to their

⁸⁶ Royal instructions to North Carolina governor Arthur Dobbs in 1754 indicate that a Treaty of Peace and Neutrality in America concluded between England and France in 1686 contained very similar provisions (CRNC, V, 1139-40).

⁸⁷ James Abercromby to Richard Nev: Aldworth, 2/17/1751, C05/304 fo. 91.

⁸⁸ Davenport, European Treaties, II, 195.

⁸⁹ Md. A., XXVIII, 493.

Subjects of a King in amity with His Majesty my Royall Master."⁹⁰

Treaties and legalities notwithstanding, residents of Northampton County began helping themselves to the effects of Barroso's brigantine shortly after the crew abandoned the wreck, the Spaniards having salvaged what they could before their evacuation to an unspecified destination, presumably Norfolk.⁹¹ The citizens of Accomack County, Virginia and Worcester County, Maryland displayed even greater zeal and initiative. Not content to pilfer simply that which was readily accessible, they proceeded, after Huony and company's departure, to tear up the Galga's decks in order to plunder the goods stored below. So efficient were the looters, in fact, that, according to Huony, "all She had in her (worth taking) was Plundered and Carried away." In doing so, the Virginia looters exploited the uncertainty over where the wreck actually lay relative to the colonial border. When the sheriff of Worcester County urged the wreckers to refrain from any further recovery activities until his governor could be consulted on matters of possession and salvage rights, they curtly replied, as they continued to pillage the wreck, that, since the vessel lay

⁹⁰ "Virginia: Colonial Papers," microfilm #M.1180.3, folder 43, no. 7a; C05/1338, p. 88.

⁹¹ "Virginia: Colonial Papers," microfilm #M.1180.3, folder 43, no. 3.

in Virginia, Maryland officials had no jurisdiction in the affair.⁹²

Shortly thereafter, the Maryland sheriff established to his satisfaction that the remains of the Galga did indeed lie within the bounds of his authority. Once he apprised his superiors of the situation, it is remarkable how quickly and resolutely the leaders of each colony acted, both individually and in concert, to prevent any further unauthorized tampering with the vessels. The two governors, Samuel Ogle of Maryland and Thomas Lee of Virginia, issued identical orders to the sheriffs of the respective counties, instructing them to gather and safeguard the remaining effects of the vessels and to ascertain the identities of those "Evil Minded Persons" who had taken into their possession, "contrary to all Law and Justice . . . Several of the . . . Materials . . . Parcels of Money and other goods and Effects" of the Spanish ships.⁹³ The speed and coordination of the gubernatorial responses is all the more extraordinary in view of Edward Randolph's observation from Maryland in 1692 that there was "no settled communication betwixt this place and virginnia."⁹⁴

⁹² Md. A., XXVIII, 482, 493.

⁹³ Ibid., 483; "Virginia: Colonial Papers," microfilm #M.1180.3, folder 43, no. 7a.

⁹⁴ Randolph, Letters, VII, 355.

Acting on his governor's orders, the Northampton County sheriff seems to have experienced little difficulty recovering the stolen effects and identifying the looters of the brigantine.⁹⁵ Likewise, the sheriff of Accomack assigned an agent who successfully employed members of the local population in the retrieval and storage of goods pilfered from the Galga.⁹⁶ Worcester County officials had a somewhat more difficult time, however, encountering as they did opposition from not only local citizens but even provincial magistrates who "Acted in a most Outrageous manner . . . in Contempt of all Law and Government." Several offenders had "even dared to Insult and abuse" the law enforcement officials. An appalled Governor Ogle expressed dismay that "any Body would have presumed to have resisted the Sheriffs in the Execution of their duty" and commanded all "his Lordships Officers and . . . his Majesty's Subjects" to assist in the enforcement of his previous orders.⁹⁷

Meanwhile, farther south in the sounds of North Carolina's Outer Banks, the captain of the Guadalupe, Juan Manuel de Bonilla, found himself in an even more precarious position than either Huony or Barroso. Although he had

⁹⁵ "Virginia: Colonial Papers," microfilm #M.1180.3, folder 43, no. 7a.

⁹⁶ Ibid., no. 13.

⁹⁷ Md. A., XXVIII, 489-90.

managed to reach Ocracoke Inlet safely, Bonilla soon discovered that it was his misfortune to anchor amongst a population which only three years before had been pillaged by Spanish raiders. Whether the local inhabitants' feelings of resentment over this incident actually constituted a more powerful incentive than the allure of Spanish treasure is uncertain, but, in any case, the colonists soon began to arm themselves with the intention of assaulting the ship, citing the earlier Spanish raid and one which had occurred in the province more recently as justifiable pretexts.⁹⁸

The decision by colonial officials to take seriously the threat posed by the armed colonists suggests that the Bankers' reputation had not improved substantially in the half century since Captain Bostock of the Swift referred to them as "those barbarous people."⁹⁹ In support of his contention that the local population might very well "come in a Body and pillage the Ships," North Carolina governor Johnston portrayed the Bankers as "a set of People . . . who are very Wild and ungovernable, so that it is seldom possible to Execute any Civil or Criminal Writs among them."¹⁰⁰ Johnston considered that his only hope to

⁹⁸ CRNC, IV, 1301, 1306.

⁹⁹ CSPC, XVI, #760 iii, p. 393.

¹⁰⁰ CRNC, IV, 1306. James Abercromby depicted local residents as "Outlaws of that Province, who had on many Occasions sworn Revenge against the Spaniards for Depredations committed, not only during the War, but after the Cessation of Hostilities" (Abercromby to Richard Nev:

protect the imperiled Spaniards from the Bankers' "Villanious Confederacy" lay in sending an immediate and urgent plea for assistance to the captain of the nearest guardship on station, H.M.S. Scorpion.¹⁰¹

The menacing demeanor of local Carolinians was ominous enough, but the shipwrecked mariners aggravated their predicament by becoming, as colonial agent Abercromby put it, "accessary to their own loss."¹⁰² Inexplicably, Bonilla failed to make any application to colonial authorities for assistance or protection for over a month. Moreover, the foreigners, "contrary to all Treaties and Usuages and without any permission whatever broke Bulk" and twice unloaded and reloaded their ship.¹⁰³ By bringing cargo ashore and having "likewise trafficked . . . a good deal of it . . . for Things that are not necessarys," the Spaniards violated that part of the Treaty of Madrid which stipulated that the crews of foreign vessels in distress might furnish themselves "with victuals and . . . supplies necessary for the support of life, the repair of ships, and the continuation of their voyage" provided that "they always refrain from unloading any cargo . . . goods or packs and

Aldworth, 2/17/1751, C05/304, fo. 93).

¹⁰¹ Ibid., 1300, 1301, 1306.

¹⁰² James Abercromby to Richard Nev: Aldworth, 2/17/1751, C05/304, fo. 93.

¹⁰³ Ibid., 1301.

exposing them for sale, and from receiving any merchandise from the other party on board their ships."¹⁰⁴

Internal squabbling caused the Spaniards additional problems. The Guadalupe's boatswain staged a mutiny and forced Bonilla to unload over a hundred chests of silver and thirty of cochineal onto two New England sloops which had sailed into the inlet. Luckily for the Spanish captain, one of the sloops ran aground and was overtaken. But the other, "tho she was a dull Sailer and had not Ten men on Board while the Boatswain had . . . fifty," made a clean getaway.¹⁰⁵ Bonilla managed to regain control of the Guadalupe, but his troubles were far from over.

When the Scorpion arrived, he petitioned Governor Johnston for permission to transfer the remaining cargo to the warship for eventual shipment back to Spain. Johnston was amenable, but suggested that the Spanish captain pay an "adjustment" fee of 4 1/2 percent on the value of the cargo to cover expenses incurred by the colonial government. Of that amount, which totalled 11,444 1/2 dollars (excluding the freight charge), the governor retained 5500 dollars, "trifling Gratification," according to North Carolina Attorney General Thomas Child, for the benefit of Johnston's "generous, important, good Offices." Whether or not Bonilla

¹⁰⁴ Davenport, European Treaties, II, 195; CRNC, IV, 1304. For the equivalent provisions in the 1686 Anglo-French Treaty see CRNC, V, 1140.

¹⁰⁵ CRNC, IV, 1306, 1307.

considered the commission trifling and regardless of how he himself might have characterized Johnston's services, the Iberian mariner obviously was in no position to argue. He agreed to pay the fee which neither the Maryland nor the Virginia governor had attempted to exact from the foreign commanders stranded in their colonies.¹⁰⁶

In terms of the handling of wrecking incidents by the colonial governments overall, the 1750 affair represents a significant departure from the irresolute and often irresponsible behavior that had characterized official reactions in the past. The speed and determination with which the Maryland and Virginia (and even, to a lesser extent, North Carolina) authorities acted to prevent the wanton plundering and destruction of the stranded vessels demonstrates how successful royal authorities had been in establishing the rule of law and obedience to crown policies since the early years of the century. This success was particularly dramatic in view of the fact that, whereas colonial officials had failed to prevent the colonists from destroying their own (i.e., English) royal guardships in 1698 and 1709-10, Chesapeake authorities managed in 1750 to overcome both avarice and national hostility in protecting a rich treasure as well as the inveterate and despised foreign adversaries to whom it belonged.

¹⁰⁶ Ibid., 1302, 1303.

As the various wrecking episodes demonstrate, Outer Banks and Eastern Shore residents required little encouragement or provocation to prey upon the stranded vessels of any nation, including their own, that happened to wash up on their shores. But if the coast dwelling colonists of the region needed a rationale for such behavior, the circumstances surrounding the wreck of the 1750 fleet certainly might have provided one. Besides the English people's traditional hatred of Spaniards as the cruel Papists of Black Legend infamy, Chesapeake residents had more immediate reasons to resent the Iberians.¹⁰⁷ Spanish privateers had taken many vessels bound to and from the Chesapeake in the recent war and some Bankers had been victimized personally by a Spanish raid on their town.

On the Eastern Shore, local Marylanders and Virginians surely must have been affected by the sight of desperate Englishmen struggling ashore to escape their foreign captors aboard the wrecked Galga. Moreover, some of the newly emancipated prisoners took advantage of their freedom to tell not only the story of the wrecked fleet, but also tales of cruelty suffered at the hands of their Spanish guards. Literate Virginians undoubtedly were horrified by an account of the tortures to which the guarda costas had subjected Andrew Connel, former captain of the sloop Mosquito, and his

¹⁰⁷ Harold W. Temperley, "The Causes of the War of Jenkins' Ear," Transactions of the Royal Historical Society, 3d ser., III (London 1909), 199.

crew prior to their fateful voyage on the Galga. A Virginia Gazette article entitled "Spanish Injustice and Barbarity" described how the guarda costas, after seizing the Mosquito in the Caribbean on the pretext of illicit trade, "immediately began to plunder, strip his people, and beat them cruelly, and torment . . . them with Thum-Screws to make them confess that they were Contraband Dealers."¹⁰⁸

In the absence of direct editorial comments by area writers on the Galga situation per se, it is difficult to assess how the colonists might have reconciled their countrymen's experience at the hands of the Spaniards with the colonial governments' orders to treat the shipwrecked foreigners with civility and forbearance. Certainly there is no indication that the Iberians were mistreated physically in any way or, in Maryland and Virginia, even threatened. On the contrary, Governor Lee wrote that the Spaniards had been furnished "with every thing that was Necessary as Friends."¹⁰⁹ But an impassioned commentary on the wreck of the 1750 fleet from faraway Boston suggests how individuals closer to the scene might have reacted under the circumstances:

It should seem a little strange that there were upwards of 50 English Prisoners on board those Ships when they were cast away . . . and the Men obliged to work for nothing, as Prisoners and

¹⁰⁸ Va. Gaz., 9/5/1751, p. 1.

¹⁰⁹ "Virginia: Colonial Papers," microfilm #M1180.3, folder 43, no. 6.

Servants, to Old Spain. . . and these Prisoners have no Notice taken of them by the English, into whose Hands their unjust Captors have fell. Might it not be queried whether the Spaniards ought not to have all been seized, till every Capture they have made on the English since the Peace were restored? . . . Must not all indifferent Persons think we are indeed the Dupes of those People? And can any Man who ever suck'd one Drop of British milk, or have one Drop of British Blood in his Veins, hear this without the utmost Indignation . . .¹¹⁰

It might be argued that New England merchants and shippers, having suffered greater losses due to Spanish ship seizures than their counterparts in the Chesapeake, were motivated by commercial, rather than patriotic, impulses in calling for retribution against the Spaniards.¹¹¹ But the traditional English anti-Spanish bias should not be discounted as a factor and, in any event, such latent hostility certainly was compatible with more immediate British anger over ship confiscations. Accordingly, South Carolina governor James Glen proposed a course of action only slightly different from the one favored by the Boston essayist: appropriate the effects of the wrecked vessels, rather than detain the mariners, as partial compensation for Spanish ship seizures since the official cessation of hostilities between England and Spain.¹¹² Similar

¹¹⁰ Pa. Gaz., 11/22/1750, p. 1.

¹¹¹ Ralph Davis, The Rise of the Atlantic Economies (London, 1982), 273-74.

¹¹² Henretta, "Salutary Neglect", 294. Glen's proposal elicited a sharp rebuke from the Duke of Bedford who warned the governor that the king was apt to dismiss from office

sentiments, both nationalistic and economic, also must have surfaced in the Chesapeake. It seems significant, for example, that the Virginia Gazette inaccurately characterized Governor Johnston's justification for exacting the 4 1/2 percent salvage and handling fee on Captain Bonilla's cargo as a reprisal for guarda costa seizures of English ships.¹¹³

The Gazette's rationale probably would have been no less palatable to the British ministers than the one offered by the governor himself -- that his salary was badly in arrears -- and may have been calculated to elevate an act of questionable morality to one of exemplary patriotism in response to past Spanish affronts and abuses.¹¹⁴ The motivation attributed to Johnston certainly was plausible in

anyone "indiscreet enough, to say no worse, to advise such a measure which may, nay must, throw the Nations, now so happily united, again into Confusion" (cited in Ibid., 295). Bedford's reprimand illustrates the significance that British authorities attached to the establishment of friendly relations with Spain at this time. For more on the development of what has come to be known as the "Seven Years' Peace" (1750-1757) between these traditional enemies, see Lawrence H. Gipson, "British Diplomacy in the Light of Anglo-Spanish New World Issues, 1750-1757," American Historical Review, LI (1946), 627-48, and Jean O. McLachlan, Trade and Peace with Old Spain, 1666-1750: The Influence of Commerce on Anglo-Spanish Diplomacy in the First Half of the Eighteenth Century (Cambridge, 1940).

¹¹³ Va. Gaz., 5/24/1751.

¹¹⁴ CRNC, IV, 1308. Johnston's salary actually was in considerable arrears. The British Treasury owed him L12,000 at the time of his death and, despite subsequent payments to his family, still owed over L2000 by the time of the Revolution (Andrews, Colonial Period of American History, IV, 193 n. 2).

view of the prevailing sentiment on the Outer Banks. After all, the armed party that threatened the Guadalupe had attracted "great Numbers under a Persuasion that . . . their Attempt would be . . . founded on Justice and well warranted by the great losses and injuries which their Country had . . . lately received from the . . . Spanish Privateers."¹¹⁵

In the face of such righteous indignation, the determination and ability of all three colonial governments to safeguard the Spaniards and their goods are quite remarkable and represent a substantial improvement in the efficacy of colonial administration over the earlier period. All three governors expressed their intention, in one form or another, to act in a manner "Conformable to the Treaties of Peace and friendship that happily Subsist between the two Crowns."¹¹⁶ A letter from Governor Lee's successor attests to the home government's approval of that policy.¹¹⁷

British officials were not so pleased, however, with Governor Johnston's management of the Guadalupe cargo shipment. In response to a complaint registered by the Spanish ambassador, British legal authorities determined that the "Governor ought not to have Demanded any Duty or

¹¹⁵ CRNC, IV, 1301.

¹¹⁶ Md. A., XXVIII, 494; CRNC, IV, 1301-02; C05/1338, p. 88.

¹¹⁷ C05/1338, p. 104.

Gratification whatsoever" in arranging for transportation of the Guadalupe's effects back to Spain.¹¹⁸ Despite Johnston's protest that any governor who was "L12000 in arrear in his Salary would not have behaved so abstemiously," the disgruntled official was ordered to make full restitution of the funds he had "illegally exacted" from the Spaniards.¹¹⁹

Although by the mid-eighteenth century North Carolina had long since become a royal colony, Johnston's behavior serves as an indication that his province still lagged behind the others in the greater Chesapeake in terms of its determination and ability to execute crown policy faithfully and expeditiously. Some of these shortcomings may be attributed to what Attorney General Child described as "the Weakness of Civil Power" in a colony "composed . . . chiefly . . . of a set of indigent desperate Outlaws or Vagabonds."¹²⁰ Obviously, though, part of the problem lay, as it had in previous administrations, with the governing officials themselves, particularly Johnston in this case, who, alone among the governors, was officially chastised for his conduct in the 1750 episode. Consistent with tradition once again, Virginia officials sought to distance themselves from the activities of their southern

¹¹⁸ CRNC, IV, 1309-11.

¹¹⁹ Ibid., 1304, 1311.

¹²⁰ Ibid., 1300, 1303.

neighbors. Stung by news of a rumor circulating in London that they, like their Carolina counterparts, had extorted "exorbitant Sums of the Spaniards in their Distress," a Virginia official expressed the hope that the home government would "never believe the Contagion extended itself to this Colony."¹²¹

Apart from the moral issue of exploiting the imperiled Spaniards' vulnerability, the Virginia and Maryland governors also acted more professionally and effectively than their Carolina counterpart in other aspects of the case, such as the unauthorized trading of goods from the wrecked ships for local provisions. Governor Johnston's complaint about Captain Bonilla's having broken bulk to barter for nonessential supplies calls to mind Alexander Spotswood's intervention when Collector George Luke was about to permit a French ship to trade in Virginia under similar circumstances in 1715. Unlike Johnston, who did not see fit to become involved until well after the fact, Virginia authorities in 1750 maintained a vigilance comparable to that of their predecessors earlier in the century. Only days after three ships of the battered Spanish fleet hobbled into the Chesapeake, and before any of the Spanish ship captains made formal application to him, Governor Lee acted decisively to prevent any illegal exchanges, ordering an officer to board the vessels, examine

¹²¹ C05/1338, pp. 104-05.

their papers, and take an inventory of their cargoes. Lee further instructed the officer to treat the Spaniards "with civility, but not to suffer them to carry on, under the Cloak of necessity any illicit trade whatsoever."¹²²

Virginia officials appeared poised to exercise the same sort of firm authority in prosecuting those who had plundered the Galga and Barroso's brigantine. Shortly after the governor took decisive action to prevent further looting of the wrecks, the Council of Virginia considered Captain Huony's complaint that "Effects to the value of some Hundred Pounds" had been removed from the warship and that four Virginians -- Ralph Justice, William Gore, Thomas Crippen, and Thomas Bonnewell (or Bonnewall) -- "were principally concern'd in it."¹²³ Although the council enjoined the alleged perpetrators to appear before the executive body about two weeks later, there is no indication that the suspects attended the subsequent meeting.¹²⁴ Over half a year later, in July 1751, the council ordered the delivery of a blank summons to the sheriffs of Northampton and Accomack "to be fill'd up with the names of and served on

¹²² "Virginia: Colonial Papers," microfilm #M.1180.3, Folder 43; C05/1338, p. 86.

¹²³ EJC, V, 337.

¹²⁴ Ibid.

all Persons who have any Effects belonging to the Spanish Ships."¹²⁵

This time, the "Several Persons" who had been served summonses by the sheriffs did appear before the council, although their number and identities are not specified in the council journal. Mysteriously, the alleged offenders had undergone a remarkable transformation in the eyes of the council during the preceding months. Initially branded as "Evil Minded Persons" for having plundered the Spanish ships "contrary to all Law and Justice," they had since been elevated to the status of salvors who, far from being liable to prosecution, were to be rewarded for having "saved" the Spanish effects by receiving "Ten per Cent for their Trouble."¹²⁶ A subsequent accounting by the Accomack sheriff indicates that among those compensated for their "ferridges & expenses" were William Gore, Ralph Justice, and Thomas Bonnewell, three of the four main perpetrators identified by Huony.¹²⁷

As a practical matter, granting salvor's fees to the wreckers probably represented a judicious compromise. Since Maryland authorities already had encountered resistance to their efforts to recover the stolen effects, Virginia

¹²⁵ Ibid., 347.

¹²⁶ Ibid., 360-61.

¹²⁷ "Virginia: Colonial Papers," microfilm #M.1180.3, folder 43, no. 13.

officials must have carefully considered the consequences of any attempt to indict and convict what may have been a not insignificant percentage of the population of the sparsely inhabited Eastern Shore. North Carolina Governor Johnston had faced a similar dilemma when confronted with an armed mob threatening to attack the Guadalupe. Realizing that it would have been "absurd and fruitless" to rely on the militia for help since it was composed of the very same people he was trying to restrain, the governor was forced to call on a royal guardship to protect the Spaniards and their treasure.¹²⁸ Under the circumstances, the Council of Virginia probably decided that, by offering the looters a salvage fee, it could avoid a potentially violent confrontation and, at the same time, achieve the objective of recovering the plundered goods. By pretending that the looters simply had acted as agents of the government in saving and safeguarding the effects of the wrecked ships, colonial officials could also give the appearance of not having countenanced any wrongdoing.

Maryland authorities eventually may have decided on a similar course of action. Although, as he had done with regard to Virginia offenders, Huony specifically identified the Marylanders principally responsible for looting the Galga in a report to Governor Ogle, the colony's records give no indication that the perpetrators ever were called to

¹²⁸ CRNC, IV, 1300-01.

account for their actions.¹²⁹ It appears, then, that none of the wreckers in either colony were prosecuted or even indicted, much less punished, for their roles in the affair. The only litigation arising from the plundering of the Spanish vessels seems to have been a successful suit initiated by a Northampton County landowner against three of the wreckers/salvors for trespassing on his property.¹³⁰ To help pay off the judgment, the defendants, Abell and George Powell and Michael Nottingham, may have used the money they received from a Virginia agent as compensation for "assisting to bring ashore the sails & rigging" from the Spanish brigantine.¹³¹

Apart from the willingness and ability of the Chesapeake governors to protect the Spaniards and assist in the recovery of their goods, other aspects of the 1750 episode suggest that prevailing attitudes about wrecking had not changed that much since the Swift and Garland eras. Seaside inhabitants of all three colonies seem to have felt few constraints in attempting to help themselves to the Spanish effects and, as in previous incidents, a venal (or in this case, perhaps simply a discontented) official, also sought to profit from the shipwrecked mariners' misfortune.

¹²⁹ Md. A., XXVIII, 493.

¹³⁰ Northampton County Order Book, vol. 22, pp. 292, 310, 314.

¹³¹ "Virginia: Colonial Papers," microfilm #M.1180.3, folder 43, no. 14.

Justice, strictly speaking, actually may have regressed. While discipline in the Swift affair amounted to little more than token punishment (except for the slave), in 1750 no one, despite clear evidence of wrongdoing in situations where legal precedent had been well established, was even prosecuted.

The creative solution apparently devised by Virginia authorities whereby looted goods were handed over in exchange for a salvage fee and some assurance of legal immunity calls to mind the sort of practical concession to reality that typified the relationships between customs collectors, shippers, and the provincial courts. The same spirit of pragmatic compromise which dictated that colonial officials either "admit of w^t security ye Country afforded or . . . take none" also applied to those rugged outposts of the maritime frontier where ships randomly stranded and wrecked.

CHAPTER VIII

"There is no depending upon the men of warr":

The Guardships

In a 1683 memorial to the Lords of Trade Virginia governor Lord Howard of Effingham cogently explained why it was "absolutely necessary" that the English admiralty station a royal frigate in the Chesapeake. "All the reasons that apply to the despatch of men-of-war to other colonies," he asserted, "prevail with double force here." Pointing out that "the revenue of Virginia exceeds that of all the other plantations put together," Effingham maintained that the presence of such a vessel would prevent "all such troubles as the late insurrection [Bacon's Rebellion], which cost the King's customs dear." Moreover, a ship cruising between the Virginia Capes would "check illegal traders and advance the King's revenue" not only in the governor's own colony, but in Maryland as well. "Finally," he declared, a guardship would serve to "put down pirates and be an awe to all plantations north of the tropic, especially New England."¹

Royal Navy and colonial guardships represented the first, and sometimes the only, line of defense against

¹ CSPC, XI, #1273, p. 505.

pirates and foreign invaders and the principal means of apprehending illicit traders who had managed to fool, bribe, or evade local customs officials. But the record of these vessels, and the officers and sailors who manned them, was hardly an exemplary one, particularly before 1700. Owing to a combination of factors -- timid, inept, and corrupt commanders; unskilled, unwilling, and undisciplined crewmen; unseaworthy, insufficiently manned, and poorly equipped ships -- the Chesapeake guardships of the seventeenth century were often regarded more as liabilities than assets by the colonists and their governors. And when one takes into account the absence of a coherent policy on the part of the home government concerning the deployment and assignment of these vessels, often resulting in intervals during which no guardships were on station in the bay at all, then the relative ineffectiveness against pirates and illicit traders comes as no surprise.

From 1667, when the first royal guardship cruised on the Virginia Station (as the Chesapeake came to be known until the end of the colonial period), until the last decade of the century the colonies as a whole suffered as a result of the diminished status accorded America by English imperial policy makers. The home government's conviction that the navy's best officers should be sent elsewhere in the empire fostered the perception that a post in the colonies, taking candidates out of the line of promotion by

relegating them to obscurity, represented a professional dead end.² The admiralty's periodic unwillingness or refusal to assign Royal Navy ships and commanders to the Chesapeake and other colonial regions did little to discourage such thinking. Consequently, Royal Navy commanders resisted colonial assignments and those who were sent constituted what one historian has described as a "bad class of officers which the Government of the day thought good enough for American waters."³ During those periods when no royal guardship was assigned to the region, English authorities sometimes instructed colonial governors to hire local vessels and captains. In the absence of such authorization, the colonies occasionally made do with no guardships at all.

The performance of several guardship captains assigned to the Chesapeake appeared to confirm whatever misgivings the English admiralty may have had about sending them to more prestigious stations in the first place. Captain John Crofts, commander of H.M.S. Deptford in the mid-1680s, provided the most extreme example of unprofessional conduct. Members of the Deptford's crew reported that Crofts was chronically drunk, abused the men physically, withheld their rations, and fought constantly with his wife. During one such altercation, Crofts' wife hurled burning embers from

² Doty, British Admiralty Board, 63.

³ Alfred T. Goodrick in Randolph, Letters, VI, 25.

the hearth across the deck with apparent disregard for the danger of fire and the proximity of the powder magazine. When the ship's gunner complained, Crofts, who had "repeatedly beaten and abused" the man in the past, now threatened to "break his head." Unwilling to confine such rash actions to the mistreatment of his own ship and crew, Crofts was also accused of unlawfully detaining merchant ships until he had extorted a suitable payment of merchandise. Called to Jamestown to account for his behavior by Effingham, Crofts threatened the bearers of the summons with bodily harm and returned the warrant with an impertinent message for the county sheriff.⁴

Where insolence and deplorable conduct were concerned, Crofts probably had no peer, but poor judgment and bad seamanship appear to have been traits more commonly shared by the guardship captains as a group. Their record in the Chesapeake attests to a high number of vessel losses, groundings, and other shipboard mishaps. In what might be considered a logical conclusion to the excesses and indiscretions of her commander, the Deptford's career ended abruptly when she capsized in a squall and sank in the Potomac River in 1688, drowning her captain and eight of her crew. The sources conflict, however, as to whether Crofts

⁴ CSPC, XII, #1264, #1264 I-IV, VIII, XI-XV, pp. 372-74; Bruce, Institutional History of Virginia, II, 182-83.

or another officer, Captain Thomas Berry (or Barry), was in command of the Deptford at the time of her sinking.⁵

In 1691 a successor to the Deptford, H.M.S. Wolf, grounded on a shallow bar in the bay between the mouths of the York and Rappahannock Rivers and was saved only through the strenuous exertions of local colonists.⁶ Several years later, Thomas Meech, the former smuggler who turned state's evidence and then was given command of a small guardship sent to assist the Wolf on station in Maryland, drowned in an unexplained accident. When Meech's sloop, which had been reported missing for several weeks, was discovered, those who boarded the craft found one man dead and another near death.⁷ The next guardship to serve the bay, H.M.S. Swift, wrecked on the coast of North Carolina in 1698.⁸ Caught in a storm and fearing that the ship would be lost, Captain Nathaniel Bostock abandoned the vessel which later washed ashore, intact, on a beach near Currituck Inlet. Edward Randolph, who had expected the Swift to transport him to North Carolina, attributed the mishap to Bostock's

⁵ CSPC, XIII, #505, pp. 162-63; Bruce, Institutional History of Virginia, II, 183; Rankin, Golden Age of Piracy, 46.

⁶ CSPC, XIII, #1349, p. 394; Bruce, Institutional History of Virginia, II, 183-84.

⁷ Md. A., XX, 367; CSPC, XIV, #2303, p. 654; Stock, Debates, II, 111 n. 31; Morriss, Colonial Trade of Maryland, 126.

⁸ See above, chapter 7, pp. 280-92.

carelessness.⁹ Two years later the ship sent to replace the Swift in Maryland was lost at sea.¹⁰ In the 1709 incident peculiarly reminiscent of the loss of the Swift, another royal guardship, H.M.S. Garland, grounded on the Outer Banks near Currituck Inlet where she, too, became a total loss.¹¹

Royal and colonial officials not only complained about the alleged incompetence of guardship captains but of their lack of diligence and cooperation as well. In 1690 the president of the Council of Virginia informed the Lords of Trade of the new guardship commander's progress in recovering the sunken Deptford. "In spite of his promises to attempt to raise H.M.S. Deptford," the councilor reported with thinly disguised disdain, "Captain Rowe writes to me that he was sick and the weather cold and anchors and cables insufficient, so that it was impossible to weigh the ship."¹² In 1699 Virginia governor Nicholson ordered Captain John Aldred of H.M.S. Essex Prize to remain confined aboard his ship for refusing to allow a local collector,

⁹ Randolph, Letters, V, 204; CSPC, XVII, #202, p. 113.

¹⁰ C05/726, pp. 138-39; Morriss, Colonial Trade of Maryland, 126.

¹¹ CSPC, XXV, #21, p. 5; William Popple to Josiah Burchett 4/21/1710, C05/1363, pp. 173-74, 180. See above, chapter 7, pp. 290-95.

¹² CSPC, XIII, #787, p. 224.

acting on the governor's specific instructions, to board the vessel and muster its crew.¹³

The reputations of the Chesapeake station commanders in the seventeenth century also suffered from a perceived reluctance to pursue maritime lawbreakers aggressively. Roger Jones, captain of the guardship Katherine, was accused of having "struck the King's colours" to pirates without a fight in 1683.¹⁴ In 1692 the Council of Virginia charged Captain Richard Finch with gross insubordination for his failure to comply with orders to cruise diligently against pirates who reportedly had been active on the Eastern Shore.¹⁵ That same year Edward Randolph complained to the Commissioners of the Customs that, within the previous eight months, 20 ships had sailed out of the Virginia Capes carrying illicit cargoes bound for Holland and Scotland "& ye man of warr had not discover'd one."¹⁶ Three years later Maryland secretary Thomas Lawrence proposed to English authorities the appointment of a "muster-master and clerk of the check to see that the men-of-war ordered on the service

¹³ CO5/1411, fo. 294, 9/4/1699.

¹⁴ CSPC, XIII, #2318, p. 665; Middleton, Tobacco Coast, 453 n. 19.

¹⁵ Bruce, Institutional History of Virginia, II, 185.

¹⁶ Randolph, Letters, VII, 365.

of these governments . . . keep cruising and not lying in harbour."¹⁷

Lawrence's recommendation conveyed a common criticism, articulated in 1698 by Virginia's Benjamin Harrison, that although a guardship normally was assigned to the Chesapeake by the late seventeenth century, "its journals will shew how much time it has spent at anchor in one particular place," an idleness which rendered the craft "of little use and sometimes prejudicial."¹⁸ Dissatisfaction with a naval commander's apparent unwillingness to patrol regularly and oppose pirates forcefully surfaced again in 1699 when the Council of Virginia chided Captain John Aldred for making repeated excuses to lie at anchor rather than cruise the bay.¹⁹ In reply to Aldred's request for a local pilot to assist in navigating his vessel, the governor and council responded with obvious irritation, "You have been in these parts long enough to be acquainted with the coast, especially if you cruised according to orders in the Bay last summer . . . Laying aside all excuses and delays you

¹⁷ CSPC, XIV, #1916, p. 519.

¹⁸ Ibid., XVI, #656, p. 331.

¹⁹ CO5/1411, fo. 300, 10/25/1699; CSPC, XVII, #871, p. 467; #891, p. 495; Bruce, Institutional History of Virginia, II, 187.

are to sail with all possible speed to Chisapeake Bay and there cruize."²⁰

Perhaps more damning than the council's intimations of incompetent seamanship and lack of initiative in matters of defense and law enforcement was the charge that Aldred, who maintained stores in various parts of the colony, was too preoccupied with his own business affairs to attend to his responsibilities as a Royal Navy commander.²¹ It was even suggested that he was vulnerable to bribery.²² Virginia authorities may have been particularly sensitive in this regard because of the conduct of previous guardship captains whose proven or alleged improprieties made Aldred's pale by comparison.

In 1692 Virginia officials received a report that Captain George Purvis of H.M.S. Wolf had loaded a ship for England without entering her and that the vessel had then been cleared "contrary to law" by collector and councilor Ralph Wormeley.²³ That same year Virginia's governor and council charged that Roger Jones, commander of the Katherine

²⁰ CO5/1411, fos. 303-05, 11/11/1699; CSPC, XVII, #947, p. 516; Bruce, Institutional History of Virginia, II, 187.

²¹ CO5/1411, fo. 300, 10/25/1699; CSPC, XVII, #891, p. 495.

²² Bruce, Institutional History of Virginia, II, 187.

²³ CSPC, XIII, #2012, p. 590; #2507, p. 713. Wormeley tried to lay the blame entirely on Purvis, although he generously allowed that the captain had "acted through ignorance" rather than with deliberate intent to defraud the customs (Ibid., #1720, p. 527).

during the previous decade, "having early learnt to cheat," had defrauded the government by drawing wages for twelve men when he only had a crew of eight. Worse yet, the council accused Jones of not simply having surrendered timidly to pirates, but also of having been "one of themselves," conniving with freebooters and shipmasters to disobey the Acts of Trade in exchange for handsome payoffs which supposedly constituted "the foundation of his great estate."²⁴ One of Jones' successors, the outrageous Captain Crofts, was once heard to boast of his intention to secure an estate for himself before he left the country.²⁵ Toward that end, Crofts used his position to extort money and merchandise from innocent shipmasters on at least two occasions, boarding their vessels and not allowing them to proceed until he had seized quantities of goods or received a sufficient bribe.²⁶

It was undoubtedly as a result of such escapades that the Maryland Council, when issuing a commission to Thomas Meech in 1695 to cruise against smugglers, explicitly stipulated that he should "in no wise molest or trouble fair traders but . . . apply himself wholly to the detecting

²⁴ CSPC, XIII, #2318, p. 665; Middleton, Tobacco Coast, 453 n. 19; Bruce, Institutional History of Virginia, II, 180.

²⁵ Bruce, Institutional History of Virginia, II, 182.

²⁶ Ibid.; CSPC, XII, #1264, #1264 V, XI-XV, pp. 372-74.

unfair and illegal Traders."²⁷ Two years later, Edward Randolph almost certainly had Jones, Crofts, and other Virginia Station officers in mind when he recommended that the Commissioners of Trade take care in the choice of future guardship commanders assigned to the Chesapeake who may "be projecting to enrich themselves by indirect ways: some by taking money of the Scotch Traders, and others to connive at their frauds . . . or sometimes by oppression and exactions upon honest Traders, as has not long since been commonly practiced by the Commanders of his Majesty's Frigats in Virginia, as severall of the Masters of Shipps . . . have just cause to complaine."²⁸

As bad as the local situation may have appeared, the improprieties committed by guardship captains in the Chesapeake were merely symptomatic of a more universal profligacy on the part of officers in the naval service of England and the colonies. A 1692 complaint issued by the Commissioners of the Customs to the Lords of the Treasury concerning the illegal importation of goods from Holland into England aboard Royal Navy ships is instructive in this regard. Such activity, the commissioners reported, "gives us occasion againe to reflect (as frequently we have been constrained to doe), upon the unwarrantable proceedings of

²⁷ Md. A., XX, 240.

²⁸ Randolph, Letters, VII, 526.

the men-of-war, and their ungovernable carriage in relation to the customs."²⁹

Partly as a result of the allegations against Crofts, Purvis, Aldred, and others suspected of involvement in illicit trade or other malfeasance on the bay station, the Navigation Act of 1696 specified that all ships, "whether the same be his Majesty's ships of war, or merchant ships, would be subject to the "same rules, visitations, searches, penalties, and forfeitures."³⁰ Also in 1696, the Lords of Trade informed colonial governors that the king had "been pleased upon Complaints tht have been laid before him of the irregular conduct of Some of the Comanders of his Ships of Warr in the Plantations" to order that all guardship captains in America be under the direction of the governor of the respective colony "during their Continuance there."³¹ In an effort to suppress smuggling by Royal Navy officers the following year, the House of Commons considered legislation which specifically forbade captains of the king's ships to import into England any goods or merchandise regardless of how it was acquired.³²

²⁹ CTP, I, 233-34.

³⁰ 7 & 8 Wm. III c. 22, VI, Pickering, English Statutes, IX, 431.

³¹ Md. A., XXIII, 26.

³² Stock, Debates, II, 220

In view of such a blemished record of lackluster performance and questionable integrity, government officials tended to hold the guardship officers in patently low esteem. Lord Effingham reportedly disparaged Captains Crofts and Thomas Allen by publicly remarking "My footmen would make as good captains as they."³³ Edward Randolph expressed similar disdain for Captain Finch and his crew whom the surveyor general considered "more fitt to be guards at Chatham then sent heither to secure the trade."³⁴ Francis Nicholson chided John Aldred for his "willful neglect of his Majestys Service" and characterized the captain's response to the governor's confinement order as too "silly, impertinent, and full of pride and vain glory" to warrant a reply.³⁵ Assessing the reliability of the guardships on the whole, Randolph concluded that there was simply "no depending upon the men of warr."³⁶

In fairness to the guardship captains, however, the responsibility for this unimpressive record cannot be ascribed entirely to the officers' personal shortcomings. Apart from the corruption and the failure of too many Royal Navy commanders to pursue pirates and illicit traders

³³ Bruce, Institutional History of Virginia, II, 181.

³⁴ Randolph, Letters, VII, 381.

³⁵ CO5/1411, fo. 295, 9/12/1699; fo. 298, 9/22/1699.

³⁶ Randolph, Letters, VII, 381.

diligently, it is also clear that the guardships often operated under handicaps that severely reduced their potential effectiveness. Chief among these were deficiencies related to both ships and seamen.

Chronically short of manpower, the naval vessels assigned to the Chesapeake often carried crews composed of poorly trained, inexperienced sailors, many of whom had been drafted involuntarily into the king's service. After an encounter with pirates in 1700 Virginia governor Nicholson (who witnessed the engagement from the deck of the guardship) remarked that "the Shoreham was very weakly manned, several of her men appearing raw and unskilful, and there being many boys amongst them."³⁷ Nicholson's assessment of the quality of seamen aboard the royal guardship not only had implications for the navy's ability to beat off pirates, but also to defend against foreign enemies and interdict illicit traders. Two historians have commented in this last regard that smugglers were "the best sailors and watermen in the world -- better far than the men of the Navy, many of whom had been pressed from various sedentary occupations."³⁸

The guardships themselves were equally problematic. Just as the English admiralty was reluctant to assign its best officers to the Chesapeake station so, too, was it

³⁷ CSPC, XVIII, #403, p. 239; #501, p. 302.

³⁸ Atton and Holland, King's Customs, I, 183.

unwilling to send its better ships to patrol the bay or to maintain them properly once they arrived. Colonial governors and councils often dismissed persistent complaints by Royal Navy commanders about unseaworthy and ill equipped ships simply as excuses for inactivity, but the documentary record indicates that many of the vessels assigned to the bay station actually were in poor condition and lacked essential gear and supplies.

In 1667 the first guardship assigned to the Virginia Station, the Elizabeth, required extensive refitting shortly after her arrival in the Chesapeake.³⁹ In 1691 local inspectors determined that the timbers of H.M.S. Dunbarton had rotted to the point that the hull was no longer serviceable. Unable to comply with admiralty orders to return the man-of-war to England, the captain had no choice but to have the vessel broken up at Tindall's Point on the York River.⁴⁰ When the replacement guardship, Henry Prize, arrived later that year Captain Finch asserted that she was an unseaworthy and dangerous vessel.⁴¹ Two years later Edward Randolph reported that "the Man of Warr lyes up

³⁹ Middleton, Tobacco Coast, 337.

⁴⁰ CSPC, XIII, #1132, p. 335; #1164, p. 340-41; #1302, #1304, p. 382; #1308 I, p. 383; #1403, p. 411; #1583, p. 473.

⁴¹ EJC, I, 231, 232; CSPC, XIII, #2167, p. 620, #2600, p. 734; XIV, #21, p. 14.

in the freshes of James River unfitt for service."⁴² In 1699 Captain Aldred expressed grave concerns about the "great leakiness" of the Essex Prize which, he contended, contributed to the vessel's "very weak and defenceless Condition" overall.⁴³

In addition to the unsatisfactory condition of many guardships, it also appears that some were unsuited or ill equipped for the functions they were required to perform. The arrival in late 1699 of the advice boat Messenger as the bay region's new royal guardship, for instance, inspired negative comment throughout the Chesapeake. Maryland governor Nathaniel Blakiston was particularly outspoken, declaring that "it was a miracle of Providence she ever got within the Capes, she is so small and low" and explaining that, since there was "not a moneth or two at most in the year that she can go out of the Capes to have the prospect of coming in again," she could provide virtually no defense for the coast.⁴⁴ The Council of Virginia resolved not even to issue any orders to the vessel's captain until the following spring, "the Messenger not being big enough to

⁴² Randolph, Letters, VII, 445.

⁴³ CO5/1411, fos. 297-299, 10/20/1699; EJC, II, 9.

⁴⁴ CSPC, XVIII, #85, p. 55; #459, p. 263; #523 xv (3), p. 315.

cruise in Chisapeake Bay, and therefore of no use to this Government."⁴⁵

Nor were size and condition the only problems associated with the Chesapeake guardships. The fair traders of Maryland and Virginia complained in 1694 that the draft of most guardships was too deep to cruise against smugglers.⁴⁶ Captain Finch described the Henry Prize as a "heavy sailer and ill roader" which, if true, would have constituted a serious disadvantage for a vessel required to chase maritime outlaws and also lay at anchor for extended periods in open waterways.⁴⁷ Even so consistent a critic of the guardship commanders as Edward Randolph conceded that "the Alburrow Ketch . . . sayles like a dung boat" and warned that "the lords of the Admiralty by sending such ships put their Ma^ties to a great charg."⁴⁸ In recommending to the king the appointment of one man-of-war each to Virginia and Maryland in 1699 to pursue pirates and prevent illicit commerce, the Lords of Trade urged that "especial care . . . be taken that they be good sailers, . . . because the strong currents in them seas do render any bad

⁴⁵ Ibid., XVII, #1070, p. 576.

⁴⁶ Ibid., XIV, #1005 I, p. 279.

⁴⁷ EJC, I, 231. John Aldred experienced a similar problem, attributing the leakiness of the Essex Prize partly to having "strained ye Bows of his Ship in riding at Anchr" (C05/1411, fo. 283, 3/8/1699).

⁴⁸ Randolph, Letters, VII, 381.

sailers altogether useless for the forementioned services."⁴⁹

Occasionally, as was the case with attacks by Dutch fleets in 1667 and 1673 and Captain Aldred's encounter with pirates in 1699, guardship commanders found that their vessels were simply outgunned and outmanned, rendering them powerless, or nearly so, to prevent the depredations of freebooters and foreign enemies.⁵⁰ After avoiding a confrontation with buccaneer John James in 1699, Aldred made a point of certifying to Governor Nicholson that the sea robbers had 26 guns and 130 men while the Essex Prize carried only sixteen cannon and a crew of 60 and was "but ordinarily provided to make a close fight."⁵¹ The officer's portrayal of his vessel as too small and weak for service in Virginia prompted the colonial council to petition the king for a ship of sufficient force to defend the region against pirates.⁵²

⁴⁹ CSPC, XVII, #29, p. 16. The well travelled pirate William Dampier also drew particular attention to the "Channel between the 2 Capes of Virginia" as a maritime thoroughfare through which "the Tides do run very swift" (Dampier, Voyages, II, 307).

⁵⁰ CSPC, V, #1545, pp. 490-91; XVII, #693, p. 382; #719, p. 393; Middleton, Tobacco Coast, 338-39.

⁵¹ CO5/1411, fo. 290, 291, 7/29 and 7/30/1699. The clerk who transcribed the captain's disclaimer referred to it in the margin notes as Aldred's "Certificat of . . . Weakness" (John Aldred to Francis Nicholson, CO5/1411, 7/26/1699).

⁵² CSPC, XVII, #693, p. 382.

Many of these shortcomings reflected a more fundamental problem on the policy-making level: the failure to define precisely the objectives that the guardships were expected to pursue. Were they to serve primarily as warships to defend the region against pirates and foreign invaders or were they to operate principally as revenue cutters to detect and apprehend illegal traders? In practice, they could hardly accomplish both. The exigencies of coastal defense called for large, well-armed vessels to repulse the incursions of powerful enemies. Patrolling against smugglers, on the other hand, required the use of small, maneuverable craft with the ability to chase lawbreakers into the shallows, creeks, and small inlets where they sought sanctuary and conducted illegal business transactions.⁵³

What was really needed, as Virginia governor Alexander Spotswood explained in a letter to the Board of Trade in the early 1720s, was two vessels, "a 40 or 50 Gun Ship . . . to Convoy our Merch't Ships out to Sea and a smaller Vessel, such as a Sloop or Brigantine, to pursue little puckerons in Shoal Water where a great ship cannot come at them"; these, he indicated, "would be very serviceable towards the Security of our Trade and driving the Pirats from this Coast."⁵⁴ The home government apparently had come to

⁵³ Middleton, Tobacco Coast, 341.

⁵⁴ Spotswood, Letters, II, 350.

appreciate the need for two different types of guardships in the bay by 1694 when it authorized both the Maryland and Virginia governors to supplement the existing force, consisting of the large and well-armed Dover Prize, by employing one or more ships of 40 tons or less to cruise against illicit traders.⁵⁵

The presence of these two types of vessels might have succeeded in deterring much of the illicit maritime activity conducted in and around the bay, had it not been for the difficulties encountered in consistently maintaining two guardships, or even one, on the Virginia Station for any length of time. Although the first guardship assigned to the Chesapeake arrived in 1667, it was not until 1684 that the admiralty assigned Royal Navy vessels to the bay station on a regular basis.⁵⁶ Even then, however, a chronic shortage of large ships in the English navy and, on the Virginia Station, unexpected losses due to navigational errors and the physical deterioration of ships resulted in periods during which the bay lacked a sufficiently powerful vessel for its protection, much less for the prevention of illicit trade. During some intervals, such as those that

⁵⁵ CSPC, XIV, #1511, p. 399. In 1702 Maryland governor Blakiston added his voice to those who supported deployment of smaller vessels against illicit trade, arguing that "a sloop will be of more use than a Man of Warr, by reason she is small and can runn into any of those Creeks and Coves where Sculking Traders have frequented" (C05/726, p. 138).

⁵⁶ Middleton, Tobacco Coast, 340.

followed the condemnation of the Dunbarton and the wreck of the Swift, it appears that the bay lay completely unprotected.

The late seventeenth-century administrative reorganization that resulted in the establishment of the Board of Trade and passage of the Act for Preventing Frauds and Regulating Abuses in the Plantation Trade appears to have ushered in an era of substantial improvement in the guardship service. After 1700 the Virginia Station generally benefited from better ships, more competent commanders, and a stronger and more consistent naval presence. Dramatic victories such as that achieved by Captain William Passenger of the Shoreham over French marauder Lewis Guittar in 1700 and Lieutenant Robert Maynard's momentous defeat of Blackbeard in 1718 symbolized the royal government's determination to rid colonial waters of the pirate scourge and demonstrated an enhanced capability to do so.

Despite these improvements, however, some of the problems of the previous century persisted. The bay station continued to suffer periodically from an insufficient number or, less frequently, a total absence of guardships to provide military protection and trade act enforcement. In June 1707 Maryland governor John Seymour indicated that the Chesapeake had been without the protection of any guardship for the previous year. Praying for the timely arrival of

the "Man of Warr which this Country has long uneasily expected," Seymour complained that, in the meantime, both Maryland and Virginia had been rendered "obnoxious to the Insult of any Rascally Pyrate or Privateer who may come and go & burne what Shipping happe[ns] to be in the Countrye at pleasure."⁵⁷

The Virginia Station was left unprotected for much of 1708 and 1709, when H.M.S. Garland was ordered to convoy the tobacco fleet to England, and for several months in late 1709 and early 1710 after the Garland wrecked on the Carolina coast, causing the Council of Virginia to lament that "by the fatal loss of her Majesty's Ship . . . this Country is again left naked and defenseless against the insults of the Enemy's Privateers."⁵⁸ The replacement guardship, H.M.S. Enterprise, arrived shortly thereafter but had to sail to New York to refit and was then called away to the Bahamas before returning to the bay.⁵⁹

Naval demands elsewhere during Queen Anne's War deprived the Chesapeake of her two guardships in the winter of 1711-12 and the bay was left similarly devoid of protection in 1716 and 1717 when the Royal Navy vessel then on station was assigned to track down pirates in South

⁵⁷ CRNC, I, 667; CSPC, XXIII, #975, p. 472; Md. A., XXV, 267.

⁵⁸ EJC, III, 229, 231; CSPC, XXV, #21, p. 5; #154, p. 57; Middleton, Tobacco Coast, 347-48.

⁵⁹ CSPC, XXV, #21, p. 4; #208, p. 84.

Carolina.⁶⁰ Although public safety was undoubtedly their foremost concern, colonial officials were also aware of the opportunities that the absence of guardships offered for the proliferation of illicit trade. As Virginia governor Spotswood reported in reference to contraband trafficking with the Dutch West Indies in 1710, "It is very apparent that the want of guardships here so frequently, has given great encouragements to the carrying on of this Trade."⁶¹

Colonial authorities also continued to complain occasionally about the inadequacy of the guardships on station for certain tasks. Just as large vessels had proved ineffective in the pursuit of illicit traders who retreated to the safety of shoal waters in small craft, so too, as Colonel Jennings of Virginia reported to the Board of Trade in 1709, were sizable guardships unable to apprehend enemy privateers that resorted to the same evasive tactic.⁶² It was for this reason as well as to impede smuggling that Governor Spotswood recommended in 1710, and again a decade later, that the home government maintain a man of war on station constantly and that they also supply "a sloop or

⁶⁰ Ibid., XXIX, #239 i, p. 138; #595, p. 317; EJC, III, 443, 444; Dodson, Alexander Spotswood, 216; Middleton, Tobacco Coast, 351.

⁶¹ Spotswood, Letters, I, 10.

⁶² CSPC, XXIV, #765, p. 480; Middleton, Tobacco Coast, 348-49.

other small Vessel well fitted and manned . . . to attend the Guard-ship."⁶³

In 1716, with the increase of pirate activity after Queen Anne's War and in response to reports that Caribbean freebooters were gravitating toward Florida to "fish" the Spanish treasure ships recently wrecked there, Spotswood also recommended that the admiralty send another warship to protect the merchant trade and "to attack those pyrates in their Quarters before they grow too formidable."⁶⁴ When his plea went unheeded Spotswood repeated the request the following year, citing the sea brigands' greatly increased strength and the damage that the colony's trade had suffered as a result. The guardship then on station, he reported, was in no condition to pursue the buccaneers and, even if she had been, would still require additional support.⁶⁵ As the pirate threat grew more acute toward the end of the decade, the Council of Virginia, the House of Burgesses, and Captain Whorwood, commander of the guardship Rye, joined the governor in appealing to the admiralty for more powerful ships and support vessels.⁶⁶

⁶³ Spotswood, Letters, I, 10; II, 350.

⁶⁴ Ibid., II, 168-69.

⁶⁵ Ibid., 246, 249.

⁶⁶ JHB, 1712-26, pp. 310-11; EJC, III, 550; Dodson, Alexander Spotswood, 219-20.

With the decline of piracy in the 1720s and the decade of unprecedented peace that followed between England and her national rivals in America, the Chesapeake did not require a guardship for military protection. The renewal of hostilities with Spain and France in the 1740s, however, called for a continual naval presence in the bay which the admiralty, much to the distress of the colonists, was unable to provide on a regular basis.⁶⁷

Colonial governors also complained from time to time that naval commanders were inattentive to the needs of the colonies whose waters they patrolled. The eighteenth century began rather inauspiciously for the guardship officers as Virginia governor Nicholson admonished Captain Aldred in 1700 to "make y^e Kings Service your Principal Case, & not absent yo^r Self from y^t to follow other private concerns." Exasperated by Aldred's persistent failure to cruise despite repeated pleas and threats, Nicholson insisted that the commander either set sail within ten days or come to Jamestown so that Aldred and his men could be discharged "and his Majesty no longer put to an unnecessary expense."⁶⁸ Several years later, following a comprehensive examination of maritime law enforcement in the Chesapeake, newly appointed surveyor general of the customs for the southern colonies Robert Quay recapitulated several

⁶⁷ Middleton, Tobacco Coast, 357.

⁶⁸ CO5/1411, fo. 306, 1/4/1700.

of the complaints that had dogged the guardship service in the previous century: "ye Capts. are above all command and do find one pretence or another always to be at anchor; when she should be cruising, she is out of order, her men wanting, ye Capt. sick etc."⁶⁹

In 1710, by contrast, council president Edmund Jennings commended the captain of the Royal Navy vessel on station for his diligence in patrolling the bay and coast against enemy privateers.⁷⁰ But when Governor Spotswood asked the Board of Trade to assign an additional guardship to the Virginia Station later that year, his specific request for a "diligent Commander, or one that had some suitable encouragement offered to quicken him in his duty" suggests a continuing skepticism regarding the caliber and dedication of officers normally assigned to the post.⁷¹

The governor's doubts hardly were allayed the following year when the captain of the Chesapeake guardship declined to provide an armed naval force to suppress insurgents in the Cary Rebellion in North Carolina. "Because Mr. Cary's chief strength consisted in his Brigantine and other Vessells w'ch he had filled with armed men," Spotswood explained in a letter to Lord Dartmouth, "I endeavoured to obtain some help . . . from her Majesty's Ship of War here,

⁶⁹ CSPC, XXI, #1150 ii, p. 739.

⁷⁰ C05/1363, p. 33.

⁷¹ Spotswood, Letters, I, 15.

but the Comodore of the homeward bound Fleet judging it the least part of his duty to do any service to this Country, refused to afford me any such assistance."⁷² Also irked about the guardship captain's refusal to help transport provisions to New York for use in a military expedition to Canada, the governor added that "this is not the only Disappointment the obstinacy of the Commodore has occasioned to her Majesty's service."⁷³

The conclusive defeats inflicted by Royal Navy personnel on the pirate crews of Guittar and Blackbeard probably offset such criticism to a considerable degree. Though these episodes suggest an elevated degree of resolve and proficiency among guardship officers in the eighteenth century, the stunning victory over Blackbeard also, ironically, served to highlight a number of shortcomings in the naval service of the Chesapeake.

Acknowledging the bravery exhibited by Lieutenant Maynard and his crew in defeating the pirates in bloody hand-to-hand combat, contemporary author Daniel Defoe nevertheless wondered why it had taken the Royal Navy so

⁷² Ibid., 84.

⁷³ Ibid., 86. Spotswood was not alone in believing that the guardship commanders cared little for the well being of the colonies to which they were assigned. In 1718 Philadelphian James Logan wrote to the governor of New York concerning the pirate threat, "We are in manifest danger here, unless the king's ships (which seem careless of the matter) take some notice of us; they probably think a proprietary government no part of their charge" (Watson, Annals of Philadelphia, II, 218).

long to engage the sea brigands in the first place. Reminiscent of earlier complaints about the reluctance of guardship personnel to pursue pirates aggressively, Defoe reproachfully mused, "'tis strange that a few Pyrates should ravage the Seas for Years, without ever being light upon, by any of our Ships of War; when in the mean Time, they (the Pyrates) shall take Fleets of Ships; it looks as if one was much more diligent in their Affairs than the other."⁷⁴

The author also cryptically suggested that the reason the "Men of War had lain up these ten Months whilst the Pyrates infested the Coast, and did great Mischief" was that the guardship captains and Governor Spotswood had "their Secret Views" in the affair.⁷⁵ Defoe evidently was intimating that these royal officials knowingly permitted Blackbeard to accumulate a hoard of booty, intending all along to profit personally from its eventual seizure and confiscation.

The insinuation was probably unfounded as far as Spotswood was concerned, but contained elements of truth with regard to the guardship commanders.⁷⁶ Contrary to

⁷⁴ Defoe, History of the Pyrates, 5.

⁷⁵ Ibid., 93.

⁷⁶ Though the rumors about Spotswood appear to have had no basis in fact, the governor's political adversaries in the Virginia assembly nevertheless did not hesitate to exploit the accusations. A 1719 paper prepared by the House of Burgesses charged that Spotswood, "understanding that there was a good deale of money and a great many Negroes in the case, . . . persuades the King's Men of War to Surprise and Kill the men within the Country of Carolina, and to Seize the goods and to bring them away to Virginia, where he

Captain Brand's orders, Maynard distributed some gold discovered aboard Blackbeard's ship as a prize of war to the victorious crew. Given the risks these men had taken and the hardships they had endured, Maynard's action is understandable, if not, from the point of view of strict naval discipline, entirely excusable. Brand and George Gordon, captain of the other Royal Navy ship from which the crew for the Blackbeard expedition was recruited, subsequently reprimanded Maynard and ordered that all the seized effects be distributed according to rank amongst the entire companies of the Pearl and Lyme without distinction to actual participation in the battle. Naturally, Brand and Gordon would have been the primary beneficiaries of such an allotment.⁷⁷

Critics of the Blackbeard action also pointed out a serious miscalculation or oversight on the part of the officers who planned the attack. According to Defoe,

had them condemned as Pyrats goods, tho' taken within the time limited in the King's Pardon, and the Money not put into the hands of the King's officers as it ought to be but, immediately into his own hands, in hopes grants will be more easily obtained of it, than if it were to come thro' the Treasury" (VMHB, XXII, 410 n., 414-15).

⁷⁷ George Gordon to the Board of Admiralty, Adm 1/1826, 9/14/1721; Defoe, History of the Pyrates, 87. In a letter to the admiralty Gordon claimed that, far from seeking to enrich himself, he, at least, had distributed "every farthing" of his share among the actual expedition members. Unconvinced of Gordon's sincerity, however, Maynard petitioned the king regarding the "unreasonable and unjust Method" employed by his superior officers in "disposing the bounty monney" (George Gordon to the Board of Admiralty, Adm 1/1826, 9/14/1721).

Blackbeard's destruction "was entirely owing to the Conduct and Bravery of Lieutenant Maynard and his Men, who might have destroy'd him with much less Loss, had they had a Vessel with great Guns."⁷⁸ Maynard's own account of the battle is said to confirm that Blackbeard's heavier firepower put his ship at a serious disadvantage. A modern analyst has pointed out that Captains Brand and Gordon should have obtained intelligence regarding the pirate's arsenal and armed Maynard's expedition accordingly. That they failed to do so represented "another instance of brave seamen losing their lives because of the ignorance or oversight of their superior officers."⁷⁹

The documentary record does not suggest, however, that such tactical blunders were a common feature of the guardship service in the Chesapeake after 1700. But other indiscretions continued to tarnish the reputations of guardship commanders. Although no Virginia Station captain emerged to rival John Crofts in egregious and unscrupulous behavior, colonists and royal officials continued to criticize guardship officers and crews on both sides of the

⁷⁸ Defoe, History of the Pyrates, 82.

⁷⁹ Arthur L. Cooke, "British Newspaper Accounts of Blackbeard's Death," VMHB, LXI, 307. Perhaps it was as a result of this oversight that when Micajah Perry and others trading to Virginia petitioned the admiralty to outfit some vessels to attack pirates the following spring, the merchants specifically requested that the ships be armed with "Pataroras" (patareros), or anti-personnel guns, "for the Said Service" (Admiralty Board Minutes, Adm 3/32, 6/10/1710).

Atlantic for pursuing their own financial interests to the detriment of colonial security, crown revenues, or the livelihoods of those engaged in legal trade.

In fact, one of the most blatant abuses was perpetrated by none other than Captain Ellis Brand upon his return to England from the Chesapeake in 1719. In clear defiance of the act of 1696 which made Royal Navy ships subject to the same rules of search and visitation as English merchant vessels, Brand refused entry below decks to British customs officials, cursing them as "a Parcel of scoundrel villains" for attempting to fulfill their legal obligations.⁸⁰

Whether the captain was concealing pirate plunder or commercial contraband (or perhaps both) is unclear, but, in either case, his conduct would not have been unusual. In 1727 Robert Byng, official Solicitor of the Droits of Admiralty, reported that "the accounting for the goods of pirates has been most shamefully neglected. The Governors of Plantations and commanders of the ships of war have seized the goods and kept them for their own private benefit. When the Captains of H.M. ships of war seize goods of pirates they refuse to account for them at home, or to agents, and the greatest part is not accounted for."⁸¹

⁸⁰ Williams, Contraband Cargoes, 131.

⁸¹ CTP, VI, 476; Karraker, Piracy was a Business, 118-19.

The extent to which guardship captains in the Chesapeake actually engaged in illicit trade in the eighteenth century is uncertain, but by the end of the second decade colonists and merchants were complaining that some navy officers had neglected the defense of the coast in order to seek profit in personal trading ventures.⁸² The Virginia burgesses specifically charged that the "Commanders of his Majesties Ships have frequently deserted the Station which they were sent on purpose to protect, and under pretence of Stress of Weather have Sailed to Barbadoes New York or Some of the other Plantations upon their own private Business."⁸³ In a letter to the Earl of Orrery in 1719, William Byrd succinctly articulated the injustice and irony of a situation in which the home government, in effect, was subsidizing guardship captains to undermine the colonial merchant trade:

our Captains of Men of Warr are so intent on Trade that they neglect their Stations, and contrive to be blown away to the Country whither their Traffick calls them. This is so great an Abuse that the Nation is at the Expence of building and maintaining Ships of War, for the enabling the Commanders of them to ruin the fair Traders in the Country where they come. For these Gentlemen pay neither freight nnor Custome, nor run any risque,

⁸² JCTP, 1718-22, p. 238; Dodson, Alexander Spotswood, 211; Doty, British Admiralty Board, 77.

⁸³ JHB, 1712-26, 261, 311. Also in 1714, the Council of Barbados complained about a contraband trade being conducted by the commander of H.M.S. Sorlings with the French island of Martinique for wine and brandy (CSPC, XXVIII, #31, p. 14).

by which Iniquity they are in condition to undersell all that do.⁸⁴

Byrd's analysis underscores a problem that originated in the seventeenth century but worsened in the eighteenth. Perceiving the guardship commanders as unfair business rivals was certain to lead to resentment, but tension in the relationship between colonists and the Royal Navy was, by Byrd's time, neither new nor restricted to those involved in the merchant trade. Obviously, the excesses of captains like Jones and Crofts did little to endear them to the colonists whose interests, at least to some degree, they were supposed to serve. Instead, the actions of such men may have helped to create an impression in the minds of Chesapeake inhabitants that guardship personnel were less their protectors than their nemeses and, conversely, that maritime lawbreakers were less to be shunned than to be collaborated with and abetted.

Besides Jones and Crofts, a number of Royal Navy commanders contributed to a legacy of bad faith with the colonists. On at least two occasions guardship captains enlisted the help of local inhabitants during emergencies using false or exaggerated promises of rewards as inducements. In 1691, after the vigorous efforts of local Virginians saved the grounded guardship Wolf, Captain George Purvis failed to make good on the assurances of financial

⁸⁴ VMHB, XXXII, 25.

remuneration he had offered so freely when the vessel was in danger of becoming a total loss. Purvis' duplicity caused an uproar that threatened the peace of the colony, requiring government officials to resort to extreme measures -- attempts to garnish Purvis' wages and place a lien on his personal property -- in order to force the captain to pay.⁸⁵ A similar situation developed in 1710 after the loss of the Garland when Governor Spotswood was compelled to pay some North Carolina salvors "who were necessitous and consequently most Clamorous, finding themselves disappointed of the great rewards promis'd them by Capt. Cook." Spotswood further indicated "that all the stores saved . . . were entirely owing to the care and labour of the Country people, and that none of the Sailors would give the least Assistance therein."⁸⁶

Inadequate discipline on the guardships, evident in the conduct of sailors ashore and shipboard, provided another source of friction between the colonists and the navy. Among the many criticisms of Captain Aldred was one that, on the pretense of victualling, he lodged the crew of the Essex Prize on shore more often than aboard ship. This practice

⁸⁵ Admiralty Board Minutes, Adm 3/6, 1/20/1691/92; CSPC, XIII, #1680, p. 516. Purvis' behavior apparently did not improve after his departure from the Chesapeake. By 1695 English officials had issued orders to court-martial the guardship captain on charges of irregular conduct and embezzlement in the West Indies (Stock, Debates, II, 84 n. 3).

⁸⁶ Spotswood, Letters, II, 23.

led to "great Complaints by y^e Inhabitants of thefts committed by y^e Seamen" and charges that the mariners were responsible for creating disturbances to the peace at night.⁸⁷ Royal Navy sailors made comparable nuisances of themselves in late 1709 when William Wilson, naval officer of the Lower James River district, reported that "diverse of the Seamen" who had been brought to Hampton from the wrecked guardship Garland had been "very rude to the Inhabitants forceing from them Victuals and entertainment." Anticipating the possibility of further trouble, the Council of Virginia ordered Wilson and the justices of Elizabeth City County to imprison the offenders should they "offer any Violence" to local citizens.⁸⁸

Fortunately for the colonists, Royal Navy officers did not make a habit of allowing sailors to roam ashore freely for extended periods. Apart from the incidents noted and a time in 1744 when large numbers of seamen and Negroes were blamed for many of the "Sundry Robberys, Insults and Disturbances" that had occurred in Norfolk, residents of the Chesapeake generally were spared the worst behavior of Royal Navy personnel.⁸⁹

⁸⁷ CO5/1411, fo. 300, 10/25/1699; EJC, II, 15-16.

⁸⁸ EJC, I, 230.

⁸⁹ Wertebaker, Norfolk, 8-9; Brent Tarter, ed., The Order Book and Related Papers of the Common Hall of Norfolk, Virginia 1736-1798 (Richmond, 1979), 63 n. 7.

One fatal exception to this rule occurred in 1692 when the boatswain and a sailor from the frigate Assurance committed the "barbarous Murther" of Captain William Marshall, a Hampton resident and Elizabeth City justice of the peace.⁹⁰ Having administered a severe beating to Marshall on shore, the seamen brought him back to their ship where the surgeon dressed his wounds and the captain saw to it that he was given a comfortable berth. The next morning Marshall could not be found, presumably having been thrown overboard during the night. News of the incident so enraged the colonists, according to Edward Randolph, "that they would have fallen upon all the saylers of that frigott" had they been given the opportunity.⁹¹ Although it appears that the captain was not an accomplice to the brutality, the incident nevertheless demonstrates the poor discipline that characterized many of the Royal Navy ships on the bay station and elsewhere in the English empire.⁹²

⁹⁰ Randolph, Letters, VII, 389; Marvin W. Schlegel, "The Shire or County of Elizabeth City, 1634-1700" in The History of Lower Tidewater Virginia, Rogers D. Whichard, ed., 2 vols. (New York, 1959), I, 129.

⁹¹ Randolph, Letters, VII, 389.

⁹² Ibid., n. 416. In the immediate aftermath of the event the guardship captain hypothesized that Marshall, "being strange to the ship, . . . must have fallen overboard" during the night on his way to the "head," but Randolph's belief that the colonist's disappearance was the result of foul play was corroborated by a subsequent investigation. Two crew members of the Assurance were convicted of Marshall's murder and sentenced to death, but ultimately reprieved (EJC, I, 296; CSPC, XIII, #2331, p. 668; #2593, p. 731).

Apart from the animosity engendered by the periodic abuses and indiscretions of captains and sailors, the most consistent source of conflict between guardship personnel and colonists involved the inseparable dilemmas of undermanning, desertion, and impressment. The problem of undermanning had become acute as early as 1692 when Edward Randolph reported that "the ship Henry Cap^t Finch Commander has not 30 able men aboard" out of a normal complement of 70.⁹³ Much of the Henry Prize's crew had deserted to North Carolina, a situation which Finch hoped to remedy by soliciting the Council of Virginia's help in apprehending the runaway sailors.⁹⁴ When Captain Aldred came under fire in 1699 for his failure to take aggressive action against pirates, he complained that the Essex Prize was not sufficiently manned to attack the invaders because his seamen were continually abandoning the ship.⁹⁵ Although H.M.S. Shoreham managed to prevail in its battle with the pirate vessel La Paix the following year, Governor Nicholson observed that the guardship lacked sufficient manpower

⁹³ Randolph, Letters, VII, 396.

⁹⁴ CSPC, XIII, #2177, p. 623; #2388, p. 683; EJC, I, 231-32.

⁹⁵ CSPC, XVII, #265, p. 149.

during the engagement to handle the sails and man the guns simultaneously.⁹⁶

The high desertion rate was undoubtedly due, in large measure, to factors which traditionally have been cited as characteristic of service in the Royal Navy during this period: poor living conditions; low pay; and unevenly applied, often harsh, and sometimes lethal discipline.⁹⁷ According to Maryland secretary Thomas Lawrence, pirates arriving in the Chesapeake with "large sums" of Red Sea treasure induced not only local colonists, but "also many of the men from the King's ships" to join them.⁹⁸ Edward Randolph reported that many young Englishmen specifically enlisted aboard English convoy ships to the Chesapeake "to avoid being press'd into His Ma^{ts} Service at home" and that they did so with the intention of deserting once they reached the bay. Most of these sailors then shipped themselves aboard other vessels, but some came ashore where they were "harbour'd and concealed by the Planters in the Country."⁹⁹

⁹⁶ Ibid., XVIII, #403, p. 239; #501, p. 302.

⁹⁷ See, for example, Middleton, Tobacco Coast, 295, 304; Rediker, Deep Blue Sea, 32-33, 126, 259; and Stout, Royal Navy, 138.

⁹⁸ CSPC, XIV, #1916, p. 519.

⁹⁹ Randolph, Letters, V, 126; Middleton, Tobacco Coast, 295.

Desertion continued to be a problem in the eighteenth century. In early 1710 Virginia officials reported that the survivors of the Garland wreck had "with drawn them Selves into other parts of this Colony" in order to avoid serving aboard the recently arrived replacement guardship, H.M.S. Diamond.¹⁰⁰ Council President Edmund Jennings and, later, Governor Spotswood issued proclamations forbidding the harboring of runaway seamen and in October 1710 the Virginia assembly passed a bill establishing rewards for capturing deserters and penalties for sheltering them.¹⁰¹ After the bill's two-year term elapsed it was reconsidered and made perpetual.¹⁰²

The guardship captains were not satisfied with the observance of the law's provisions, however. As a result of their complaints the governor issued another proclamation in 1717 insisting that the officers of the colony make certain to enforce the statute.¹⁰³ Despite the legislation and public notices, the following year Captain Gordon of the

¹⁰⁰ EJC, III, 574-55.

¹⁰¹ Hening, Statutes, III, 486-89; Spotswood, Letters, I, 56.

¹⁰² Hening, Statutes, IV, 46; JHB, 1712-26, 51 ff.; Dodson, Alexander Spotswood, 212.

¹⁰³ EJC, III, 458.

Lyme reported having lost "a great many" of his men on the Virginia Station through desertion.¹⁰⁴

Perhaps it was the naval commanders' annoyance with colonists who harbored deserters or, as Randolph alleged, conspired to "allure or entice any Sailor [&c] from his service aboard ship" that enabled the officers to justify the impressment of men from the colonial ranks.¹⁰⁵ More likely, the navy men felt they needed no justification beyond the imperative to man their vessels adequately. Whichever was the case, there can be no doubt that impressment and the harboring of deserters fostered a mutual resentment between colonists and guardship officers that escalated in the eighteenth century.

Impressment was causing problems on the Virginia Station as early as the last decade of the seventeenth century. In 1695 Edward Randolph observed that shipmasters "mett with Great Difficulties in loding their tobacco either by their Saylers deserting their Service, or by ye Comanders of his Maties Shippes of Warr pressing them." Many of the

¹⁰⁴ George Gordon to the Lords of Admiralty, Adm 1/1826, 3/10/1718. Besides attracting pirates to the North American continent, the lure of treasure from the Spanish plate fleet wrecks off the Florida coast also precipitated wholesale desertions from a royal guardship in the spring of 1716. Having lost ten men in two days to salvage crews, the captain of H.M.S. Diamond reported that had he remained in the area a week longer, he would have lacked enough men to sail the vessel home, his sailors "being all mad to go a wrecking" (CSPC, XXIX, #158 iv, p. 80).

¹⁰⁵ Randolph, Letters, V, 127.

merchant sailors were being impressed for service aboard the guardships that escorted the tobacco fleet to England during King William's War. But the shortage of manpower induced by the press meant that some merchant ships were unable to load the tobacco in time to weigh anchor with the fleet "so that," as Randolph reported, "the Convoy left 25 Sayle of vessells last yeare exposed to ye Danger of Privateers."¹⁰⁶ How bitterly ironic it must have seemed to the shipmasters that the guardship captains sent to provide a safe escort for their vessels were the same ones responsible for depleting the crews of the tobacco ships, thereby effectively preventing the merchant vessels from participating in the convoy.¹⁰⁷

Four years after Randolph made his observation, Captain Aldred of the Essex Prize provoked the ire of Virginians by impressing several colonists, contrary to Admiralty orders, on his own authority.¹⁰⁸ Mary Ricketts objected to the

¹⁰⁶ Ibid., 124-25; CSPC, XIV, #2261, p. 643.

¹⁰⁷ Impressment, of course, was greatly resented (and sometimes vehemently opposed) in other English colonies as well. In 1696 the Council of Barbados complained to the governor that "the decay of the Island's trade proceeds from the pressing and ill-using of the seamen, and other great abuses of the press, that the King's ships never come out fully manned" (CSPC, XIV, #2251, p. 641).

¹⁰⁸ Early in 1697 the Lords of Admiralty informed Francis Nicholson that naval commanders in the Chesapeake were no longer permitted to press local seamen on their own authority. In case of manpower shortages they were to apply to the colonial governor for assistance (Admiralty to Francis Nicholson, C05/1411, 1/26/ 1696/7). Aldred's Admiralty instructions, issued prior to his departure from

abduction of her fiancée, "one Sykes," and two local business operators complained that Aldred had impressed men under their employ because of a personal grudge.¹⁰⁹

Shipper John Minson stated that the master of one of his sloops had been drafted because of "Aldred having some difference with him."¹¹⁰ Ordinary keeper William Smolt was more specific, claiming that Aldred had pressed a carpenter who was working for him because the proprietor would not entertain Aldred's seamen in his tavern.¹¹¹

The Council of Virginia ordered Aldred to discharge the men and instructed him in the future not to impress any sailors from inward bound ships; the councilors did permit him, however, to take one seaman from each outward bound vessel with a crew larger than twelve.¹¹² When Captain Passenger arrived in the Shoreham later the same year he was ordered not to impress men on his own authority but to

England for the Virginia Station, included a specific warning not to impress colonists himself, but to seek the help of "our Vice admiral," the governor of Virginia, should he require additional sailors (Ibid., Admiralty instructions to Captain Aldred, 9/14/1697).

¹⁰⁹ CO5/1411, fo. 296, 9/15-19/1699.

¹¹⁰ The dispute may have involved "pilotage" services rendered over seven months earlier for which, Minson charged, Aldred had failed to pay (Ibid.).

¹¹¹ Ibid.

¹¹² EJC, II, 43; CSPC, XVIII, #152, pp. 80-81.

petition the governor for any conscripts he might require.¹¹³

Passenger deferred to the wishes of council only to have his own and the governor's authority challenged by an irreverent young merchant ship captain. The naval commander gave Nicholson an account of "the many threats of the law and other scurrilous language I met with by executing your warrant . . . by one Tregenny, master, who said he valued not your order, there was no law for pressing, and if the ship came to damage he would lay it to my charge." Passenger described the merchant craft skipper as nothing more than a "young uppish spark, fitter for a school than a master of a ship." But the navy officer was sufficiently alarmed by the young man's threat to express anxiety that Tregenny might "wilfully or through ignorance" run the merchant vessel aground with the result that Passenger would be "liable to be laid in jail for it" when he returned to England. Indeed, the guardship commander's apprehension impelled him to cite a precedent, a case in Barbados where locals reportedly prosecuted the captain of H.M.S. Deptford for impressing men despite his having received "express orders from the Admiralty" for doing so.¹¹⁴

¹¹³ Bruce, Institutional History of Virginia, II, 188.

¹¹⁴ CSPC, XVIII, #523 xv (14), pp. 316-17. Documented cases of outright defiance of royal authority on the high seas or coastal waterways of the greater Chesapeake are relatively rare, but they did occur, or at least were alleged, from time to time. In addition to the Two Brothers

As a result of similar problems elsewhere in America, British authorities extended the policy of restraint to other colonies in the Act of 1707, a statute that prohibited naval commanders from impressing colonists on their own authority and required them to apply to the colonial governors to assist with manpower deficiencies.¹¹⁵ The legislation apparently was enacted solely as a wartime measure to encourage trade, but Anglo-Americans tended to regard it as a universal condemnation of impressment. Although British Attorney General Edward Northey rendered his judgment in 1716 that the statute had expired, the colonists continued to believe that it remained in effect.¹¹⁶

Confusion and disagreement over whether or not the law was still in force insured that the impressment issue would become a major source of contention between colonists and guardship personnel, leading to violence and charges of lawless behavior on both sides. The dispute lay dormant

affair in Edenton harbor mentioned in chapter 4, Harry Beverley, a Virginian who had been deputed to cruise local waters against illicit trade, reported a similar incident in 1695. Attempting to examine a vessel in Maryland's Severn River, Beverley testified that he was confronted by 20 or 30 members of a hostile crew who "appeared . . . with drawn swords, giving me a great many abusive Words & Swore We should not come on Board." Richard Hill, captain of the merchant ship, subsequently denied the allegations (Md. A., XX, 322, 324).

¹¹⁵ Doty, British Admiralty Board, 115.

¹¹⁶ Ibid., 116-18.

during the peaceful 1730s but flared up again in the next decade after the outbreak of the wars of Jenkins' Ear and the Austrian Succession. Once again, undermanning and desertion created an increased demand for impressment. In 1742 Captain William Gordon of the royal sloop Hound reported from Virginia that he had been plagued by a severe manpower shortage ever since his arrival on the bay station, his predecessor having left him "most miserably mann'd with thirty short of complement." Compounding the problem were the "too frequent desertions in this Colony" which Gordon attributed to "the high Wages offer'd by Merchant men the natural unsteddiness of Seamen and . . . the great number of Gallons of Rum which the Masters never fail to promise," all of which, the naval commander grumbled, had "weight enough with our unthinking people to make them leave."¹¹⁷

Gordon appealed for assistance to Governor Gooch who responded by issuing a proclamation declaring that the king's ships stationed in Virginia had been "so disabled and weakened" by desertions "as not to be in a Condition to defend the Coast and Trade, from the Insults of the Enemy" and requiring officers and citizens to "use their utmost Diligence to detect and apprehend all such Seamen."¹¹⁸ The edict seems to have had a chastening effect on the

¹¹⁷ William Gordon to Board of Admiralty, Adm 1/1829, 12/30/1742.

¹¹⁸ Adm 1/1829, 12/15/1742.

deserters and their abettors, but it did not entirely resolve Gordon's dilemma.¹¹⁹

Six months later the guardship officer acquainted the Admiralty Board with what he described as "the greatest grievance that ever happen'd to his Majesty's Officers in Foreign parts." What had so unnerved Gordon was that "a few inconsiderate inconsiderable little traders under the managements of a lawyer of the same stamp" had resolved to prosecute any guardship captain who dared to impress a sailor in Virginia, even if the mariner was a deserter from the captain's own ship. In fact, the Royal Navy officer indignantly affirmed, a fellow commander had been brought up on just such a charge and Gordon himself had been issued a summons for allegedly impressing men from an outward bound ship, an accusation that he emphatically denied.¹²⁰

The guardship captain also complained of having been served a writ by a merchant who threatened to "trounce" him for crimping "three Vagrants at a little bawdy house" in Hampton even though local justices of the peace had sanctioned the impressment. Gordon conceded that the "Governor, Councill, and Better sort" were all "highly averse to prosecutions of this kind," yet these individuals did not act as decisively to curtail the legal harassment as

¹¹⁹ William Gordon to Board of Admiralty, Adm 1/1829, 12/30/1742.

¹²⁰ Ibid., 6/9/1743.

the captain would have liked.¹²¹ The admiralty, however, did not hesitate to remind Governor Gooch that the 1707 Act was no longer in effect and insisted that he put a stop to all such proceedings against guardship officers.¹²² In November Gordon reported that the merchants had dropped the lawsuits and thanked the Lords of the Admiralty for their "speedy regard to the representations of their officers" which he felt would probably discourage similar litigation in the future.¹²³

By foreclosing on the colonists' legal options, however, British authorities once again were merely treating a symptom of the impressment problem and failing to address its causes. Manpower deficiencies in the Royal Navy persisted, guardship officers continued to crimp, and the colonists remained adamant in their opposition. If Virginians could no longer readily harbor deserters or resort to judicial means of redress, they found other means to thwart or resist the press.

On September 10, 1744 the Council of Virginia read a letter from Lord Banff "Complaining of a riotous and tumultuous Behavior of the Inhabitants of . . . Norfolk towards himself & the People belonging to the Ship under his

¹²¹ Ibid.

¹²² EJC, V, 134; Doty, British Admiralty Board, 119.

¹²³ William Gordon to Board of Admiralty, Adm 1/1829, 11/21/1743.

Lordships Command."¹²⁴ Ten days later the council appeared to strike a pose conciliatory to the naval commander by ordering Norfolk officials to restrict the distribution of arms "upon any Allarm" and requiring local magistrates and militia commanders "diligently to discharge their Duty in preserving the Peace . . . and to give all necessary Assistance to His Majestys Ships of War."¹²⁵

And yet the council, which Captain Gordon had characterized as generally sympathetic to the plight of guardship officers, also recommended sending a letter to Banff which would allot a full share of blame for the incident to the commander and his men. The proposed letter also, incidentally, shed some light on the nature of the disorder since Virginia officials asserted their conviction that the fracas had been occasioned by Banff's "Men entering the Town in such a Multitude armed with Clubs" and expressed the hope that "his Lordship will never permit his People to come a Shore in any such Number or Manner"¹²⁶ Though the exact causes and details of the disturbance remain obscure, it seems likely that Banff's group constituted a press gang and, even if it did not, that the citizens of Norfolk perceived it as such.

¹²⁴ EJC, V, 158.

¹²⁵ Ibid., 161; Tarter, ed., Norfolk Order Book, 62-63.

¹²⁶ EJC, V, 161-62.

An incident the following year illustrates how colonists could resist the press in a less confrontational way. In March 1745 Captain Richard Gwynne of the royal sloop Falcon sent his lieutenant aboard the merchant ship Allen "to Impress for his Majesty's Service all that was liable thereto." After a muster and thorough search of the ship produced only "the Officers and a few Boys," the lieutenant discovered (merely through the coincidental arrival of a local man with the getaway craft) that the officers had permitted the sailors to "Run away" in one of the ship's boats. Incensed "after their Lordships good help and Indulgence to the Officers in protecting them from the Press, that they should Encourage unprotected Men to escape," Captain Gwynne advised the Admiralty Board that he had detained the Allen's boatswain and carpenter pending notification of their lordships' pleasure in the matter.¹²⁷

As was the case in 1744, however, Chesapeake colonists did not always seek to avoid conflict in opposing impressment. In 1749 a Captain Norbury complained of the rough treatment he received at the hands of local residents for pressing four vagrants in Norfolk. This time the Admiralty was not as supportive as it had been of William Gordon six years earlier. With the advent of peace and in

¹²⁷ Richard Gwynne to Board of Admiralty, Adm 1/1830, 3/11/1745.

recognition of a heightened level of colonial opposition to the press, the Lords of Admiralty admonished Norbury "to behave more discreetly and not render his Majesty's service disagreeable to his subjects."¹²⁸

Guardship officers may have exercised poor judgment at times and neglected their duty to engage in questionable enterprises at others, but they were hardly alone among influential royal and proprietary officials in the Chesapeake to do so. Just as the improprieties of some commanders merely reflected a more widespread profligacy in the officer corps of the Royal Navy on the whole, so too, were such abuses the products of a system and an age in which corruption was countenanced, practiced, and even encouraged by many of the king's most distinguished servants in both the home and colonial governments.

¹²⁸ Doty, British Admiralty Board, 122.

CHAPTER IX

"Perhaps the Mismanagement and Abuses of the . . . Officers have Driven them to it": Conclusion

It is one of the ironies of maritime lawlessness in the greater Chesapeake that the royal officials assigned to monitor and enforce imperial policy and regulations habitually derided bay area residents for their direct or supporting roles in wrecking, freebooting, and smuggling, but rarely stopped to consider the ways in which official connivance and corruption at all levels of imperial administration, including their own, contributed to the problem. A telling illustration of how pervasive the problem was, and how oblivious to it some crown officers in the colonies were, is the situation in which Governor Spotswood, indignant over John Holloway's legal defense of pirates, addressed his complaint to British Secretary of State James Craggs. If the secretary was unresponsive to Spotswood's grievance, as appears to have been the case, it was very likely because he was preoccupied with his own predicament, the imminent bursting of the South Sea Bubble

in whose fraudulent schemes Craggs soon would be heavily implicated.¹

Considering the extent of corruption in English government during the colonial era, is it any wonder that many colonists would regard pirates, contrabandists, and wreckers as no more opportunistic or immoral than those who sought or pretended to bring these "criminals" to justice? In this respect many Chesapeake residents probably did not dismiss as mere rhetoric pirate captain Samuel Bellamy's cynical and contemptuous observation concerning British authorities that "they villify us, the scoundrels do, when there is only this Difference, they rob the Poor under the Cover of Law, for sooth and we plunder the Rich under the Protection of our own Courage."²

As was the case with the introduction of piracy, illicit trade, and wrecking in the early American colonies, the example of the home government, its overseas agents, and other English notables in overlooking, sponsoring, or actually engaging in maritime illegality continued to influence the attitudes and behavior of Chesapeake

¹ Spotswood, Letters, II, 305 n. 80; Carswell, South Sea Bubble, 219, 229, 234-35; Sperling, South Sea Company, 35. The secretary of state died of smallpox while under investigation and his father, James Craggs, Sr., committed suicide the night before he was to appear before Parliament to explain his own role in the scandal (Spotswood, Letters, II, 305 n. 80; Sperling, South Sea Company, 35; Carswell, South Sea Bubble, 243-44).

² Defoe, History of the Pyrates, 587.

inhabitants throughout the colonial period. While royal and colonial authorities typically ascribed primary responsibility for the commission of such transgressions to the planters, shipmasters, and residents of the greater Chesapeake, Benjamin Harrison and others offered an alternative explanation. If the colonists were indeed guilty of lawlessness on their maritime frontiers, Harrison suggested, "perhaps the mismanagement and abuses of the government and the officers have driven them to it."³

Since residents of the bay region seemed to require little prodding in that direction, the Virginia attorney probably overstated his case in asserting that "so long as the evil was tolerable, duty and loyalty . . . kept them [the colonists] from doing these things which they saw the officers encouraging."⁴ Nevertheless, the significant number of local customs agents and colonial officials who did engage in various forms of corruption obviously failed to set the sort of example that English authorities hoped the colonists would emulate. Most disturbing of all, from the perspective of those royal officials genuinely concerned with maritime law enforcement, was the inescapable reality that such behavior was not restricted to officials of council rank and below.

³ CSPC, XVI, #656, p. 332.

⁴ Ibid.

Allegations of graft and corruption on the part of royal governors in the greater Chesapeake date back at least to William Berkeley's tenure in Virginia. In addition to Giles Bland's charges concerning the governor's alleged involvement in illicit trade, Berkeley apparently availed himself of at least one other morally questionable profit-seeking opportunity. The issue concerned a custom that developed sometime around the mid-seventeenth century that shipmasters arriving at Eastern Shore harbors would leave a present of wine or provisions for the governor with the local collector. Although the practice never was mandated by law, Berkeley insisted on its observance, pointedly reminding a collector in 1667 that he had not received his annual presentation.⁵

The custom surfaced as an issue once again, this time in a somewhat more controversial context, nearly a half century later. When Governor Spotswood was accused anonymously in 1716 of various charges related to customs abuses (most of which appear to have been without any foundation), he was obliged to admit that he had accepted one fee not specifically warranted by law, "the Governour's Dues at the Cloasing out of Shipping." The rationale that Spotswood offered in his own defense was revealing. This particular perquisite, he insisted, had "been allow'd of even from beyond the memory of Man" and had been "constantly

⁵ Wise, Kingdome of Accawmacke, 298.

receiv'd" by all of his predecessors.⁶ Whether due to Berkeley's exertions or those of succeeding governors, the custom evidently had become institutionalized over the years, establishing a precedent for officially sanctioned opportunism which could not have had an edifying effect on the colonists.

Unfortunately for the crown (and, sometimes, the colonists as well), the passive acceptance of unsanctioned benefits represented only one of the milder forms of alleged gubernatorial impropriety in the maritime sphere. Among critics of the governors' laxity in seeking to curtail smuggling and, more disturbingly, their occasional promotion of, and even direct participation in, illegitimate maritime affairs, Edward Randolph was, as usual, particularly outspoken. Having commended Virginia governor Nicholson in 1692 for seizing a vessel that collector John Custis had permitted to trade illegally, Randolph remarked that the effect on contrabandists and corrupt customs agents would be to cause them to worry that henceforth the governor would no longer "leave the business of ye Customs to their manage onely" as previous chief executives Lord Culpeper and Effingham had done.⁷

Maryland chief executives were hardly exempt from criticism either. Besides the charges of fostering and

⁶ Spotswood, Letters, II, 192.

⁷ Randolph, Letters, VII, 348-49.

conducting illegal trade frequently levelled at Lord Baltimore and his subordinates, in 1693 the surveyor general accused the new royal governor, Lionel Copley, of permitting Scotsmen and New Englanders to conduct illicit trade directly to Scotland.⁸ Randolph further alleged that Copley played an active role in securing acquittals for three ships which the customs official had seized for trade law violations.⁹ In addition to the governor's support of Potomac River collector Nehemiah Blakiston in extorting "extravagant fees" from shipmasters, the surveyor general charged that the chief business of Copley's "second Jacall," Patuxent River collector (and subsequently Maryland attorney general) George Plater, was "to plye for wine Brandee for the Gon^r amongst the ships."¹⁰ Similar complaints continued to be voiced in the eighteenth century. In 1717 Annapolis resident Thomas Macnemara accused Governor John Hart of importing "in partnership with some of the principal inhabitants . . . wines sugar, etc. from Lisbon contrary to the Acts of Parliament." Macnemara attributed the success of the smuggling venture to Hart's having "so farr awed or

⁸ Ibid., V, 142-43.

⁹ Morriss, Colonial Trade of Maryland, 127. For Copley's indignant and ranting rebuttal to the "base and ignominious aspersions" allegedly concocted by Randolph's "hot and inveterate brain" see Md. A., VIII, 335.

¹⁰ Randolph, Letters, VII, 374, 378.

influenced the Customs Officers, that they required no entry to be made of the said goods."¹¹

Randolph was no more complimentary in his assessment of the governors of North Carolina whose "grievous oppressions" were said to include "their exacting extravagant Fees from Masters of vessells . . . Whereby lawfull Traders have been wholly ruined."¹² During the same period, James Blair and Benjamin Harrison accused Governor Edmund Andros of attempting to sabotage crown efforts to suppress illicit trade in Virginia.¹³ When the royal government issued orders for the Maryland and Virginia governors to hire a local vessel to cruise against smugglers, Harrison alleged that Andros purposely contracted the vessel "at a very great rate" and drew the funds not from the Treasury's account but from the colony's standing revenue so that the whole project "might be as burdensome as possible and therefore soon laid aside."¹⁴ The promotion of illicit trade by governors from colonies outside the region further compromised the crown's ability to control such activity in the greater

¹¹ CSPC, XXX, #289, p. 141. Hart subsequently informed English authorities that he could find no evidence of contraband commerce between Maryland and any of the French colonies, but there appears to be no record of his having made any direct refutation of Macnemara's charge regarding illegal trade with Portugal (CSPC, XXX, #417 i, p. 201).

¹² Randolph, Letters, V, 271.

¹³ Perry, Church Papers, 14; CSPC, XVI, #656, pp. 331-32.

¹⁴ CSPC, XVI, #656, pp. 331-32.

Chesapeake. In 1692 mariner Thomas Smith submitted an affidavit to the officers of the Liverpool Customs House indicating that he had navigated a sloop from Bermuda, in accordance with orders from the island's governor, to Maryland and from there, in clear violation of the trade laws, straight to Ireland and Scotland.¹⁵

In addition to revealing participation in, and encouragement of, activities directly antithetical to the Acts of Trade, the documentary record occasionally offers glimpses of other assorted improprieties committed by colonial governors in the maritime sphere of the greater Chesapeake. In 1726, for example, former North Carolina governor George Burrington was indicted for breaking into the home of Edenton resident Thomas Parris. Burrington allegedly had threatened to murder Parris and his family, but the ex-official's wrath was directed more "particularly," it seems, toward another resident or guest of the household, local customs collector Adam Cockburne.¹⁶ A 1730 suit initiated by North Carolina's advocate general reveals that another former governor, Charles Eden, had failed to submit the king's share of whale oil and bone recovered in the colony during his administration, an embezzlement of funds which, over a

¹⁵ Ibid., XIII, #2719, p. 752.

¹⁶ NCHCM, 1724-1730, 227.

ten-year period, amounted to an estimated loss of £2000 in crown revenue.¹⁷

As serious a problem as gubernatorial corruption and misbehavior was, it hardly constituted the only high-level obstacle to effective law enforcement in the maritime sphere. The exertion of influence by socially and politically well placed individuals and interest groups and the uneven application of justice that resulted certainly must have contributed to an erosion of the public's faith in, and respect for, the colonial extension of the English legal system. The pirate adventure of Henry Munday, member of a prominent Maryland tobacco trading family, offers a case in point.

In the summer of 1700, Munday returned to America from a trading voyage to Africa where, he reported, his ship had been plundered by pirates.¹⁸ The story was convincing enough to induce Maryland governor Nathaniel Blakiston to issue a proclamation, in advance of Munday's arrival in the colony, calling for the pirate captain's apprehension. But Munday subsequently aroused the governor's suspicion when he entered the Patuxent River with a full cargo of 300 slaves, suggesting to Blakiston that the shipmaster "had been no great sufferer as he had represented to the Board."¹⁹ A

¹⁷ N.C. St. Arch., CCR 142, doc. no. 24.

¹⁸ CSPC, XVIII, #694, #694 iii, pp. 462, 465.

¹⁹ Ibid., #694, p. 462.

search of the vessel additionally revealed a quantity of "money and plate" which Munday had neglected to report to customs officials.²⁰

Whether the captain and his men obtained the goods (which, as it turned out, had been seized from a Royal African Company ship) by overpowering the pirates or colluding with them is unclear, but Blakiston concluded that, in any event, Munday was "more guilty than any of them" and his actions "more notorious than any."²¹ Despite the governor's further conviction that the shipmaster also deserved "to be secured more than any," it does not appear that Munday was ever prosecuted, a circumstance evidently related to the influence of an English special interest group.²² Describing his own reluctance to pursue the matter, Blakiston explained that he was "always very tender and cautious of giving any just grounds to the merchants at home to think they have the least difficulty put upon them; for if Munday should be secured it might be a means of the ship's miscarrying."²³

The influence of London merchants also may have played a role in both advancing the career of Lower James River district customs collector Richard Fitzwilliam and

²⁰ Ibid., #694 ii, p. 463.

²¹ Ibid., #694, p. 462; #694 ii, p. 463.

²² Morriss, Colonial Trade of Maryland, 131.

²³ CSPC, XVIII, #694 ii, p. 464.

protecting him from charges of corruption in office. The report that Alexander Spotswood submitted to the Commissioners of the Customs in 1719 not only detailed the Virginia governor's personal knowledge of various abuses allegedly committed by Fitzwilliam, but also referred to representations against the collector "from other hands, particularly from the Capt's of the Men of War, who have but too much reason to Complain of his behavior in Countenancing Pirates," including the specific charge that Fitzwilliam had been dealing with Blackbeard.²⁴

Normally, denunciations by a well respected governor and Royal Navy commanders would have been more than sufficient to ensure the removal of a mere local customs agent from his post. Fitzwilliam, however, was neither discharged nor even reprimanded. In fact, his professional standing does not appear to have been diminished in the least, as his subsequent appointments to the influential offices of surveyor general of the customs for the southern colonies and governor of the Bahamas clearly demonstrate. To what may this remarkable resilience and invulnerability to criticism be attributed? Spotswood hinted obliquely at the answer when he asserted that the residents of Fitzwilliam's customs district would have petitioned crown authorities "unanimously" for the collector's dismissal had

²⁴ Spotswood, Letters, II, 328; Karraker, Piracy was a Business, 208; Lee, Blackbeard, 156.

they not been "aw'd by ye Interest he boasts of, and the fear of worse usage upon his return" from a voyage to England.²⁵

The "Interest he boasts of" almost certainly referred to the same group of British merchants whose exorbitant freight rates, opposition to measures designed to encourage colonial shipbuilding, fulminations against the exportation of bulk tobacco from the colonies, and excessive profits at the Chesapeake planters' expense had earned them the antipathy of many bay area inhabitants. If Richard Fitzwilliam had indeed cast his lot with the London traders and was indebted to them for his success, he demonstrated his gratitude by consistently supporting their commercial interests during his tenure as surveyor general. When in 1729-30 Virginia planters sought, with Governor Gooch's support, to repeal Parliament's prohibition against the importation of tobacco stripped from the stalk, Fitzwilliam placed himself in the forefront of those opposed to the colonial position.²⁶ Among those who stood to lose the most from the proposed repeal were, of course, the English merchants whose freight revenues would have been reduced significantly had the initiative succeeded. Fitzwilliam has also been identified as the principal adversary in England of the governor's momentous tobacco inspection act, regarded

²⁵ Spotswood, Letters, II, 328.

²⁶ Flippin, William Gooch, 27 and n. 67.

by many in the colonies and the home country as the best hope for resuscitating the severely depressed Chesapeake economy.²⁷ Once again, historians point to the surveyor general's influential connections in England as the factor which enabled him to oppose a royal governor with impunity, a stance which in part earned him the opprobrium of Gooch and the Virginia burgesses as a "turbulent Spirit unfit for Society."²⁸

But if Fitzwilliam had his detractors in the colonies, he also had his supporters. Two of his principal allies bear names which also, curiously, were associated with maritime lawlessness in the greater Chesapeake. When the House of Burgesses voted on a petition to remove the surveyor general from the Council of Virginia, it was Speaker John Holloway, the Williamsburg attorney disparaged by Governor Spotswood as a "constant patron and Advocate for Pirates," who cast the deciding vote in Fitzwilliam's favor.²⁹ After the measure was defeated, fellow councilor John Custis, son and namesake of the corrupt Eastern Shore customs officer, wrote to England to assure

²⁷ Hemphill, Virginia and the English Commercial System 1689-1733, 164; Horne, "Tobacco Inspection Act," 41.

²⁸ CO5/1322, p. 64; Horne, "Tobacco Inspection Act," 45.

²⁹ Horne, "Tobacco Inspection Act," 41; Spotswood, Letters, II, 354; CSPC, XXX, #800, p. 430.

the royal customs agent that his allies were protecting Fitzwilliam's interests faithfully during his absence.³⁰

Similar connections between individuals known or believed to have been involved in various forms of illegal maritime activity in the greater Chesapeake are not uncommon. North Carolina governor Charles Eden, for example, a principal beneficiary of Blackbeard's freebooting and the officiating magistrate at the pirate's wedding, had a friendship of sufficient intimacy with the Williamsburg attorney and legislator who infuriated Alexander Spotswood with his defense of pirates that Eden saw fit to bequeath "his Negroe Boy Taphy to the said Gov^r very good Freind John Holloway Esq^r in Verginia."³¹ Tobias Knight, the North Carolina secretary and customs official upon whose property Blackbeard's booty was discovered, is said to have consorted closely with Virginia collector and alleged Blackbeard associate Richard Fitzwilliam.³²

³⁰ Horne, "Tobacco Inspection Act," 44.

³¹ CRNC, II, 538.

³² Karraker, Piracy was a Business, 163. Fitzwilliam also served in the late 1720s on the commission to survey the North Carolina-Virginia boundary. Not only did he anger Governor Gooch with his insistence on being paid as much as the other commissioners, though he quit the survey well before the others, but also because he favored the proprietors' interest in establishing the border, a stance which could be interpreted as a further indication of the customs agent's close ties with Carolina officials (CO5/1322, p. 65).

Henry Irwin, the Virginia collector who apparently embezzled confiscated pirate effects with which he had been entrusted, acted as an agent in a 1728 North Carolina land purchase for Samuel Swann, very likely the same Samuel Swann called to account four years later for suspected "Male Practice" in neglecting to condemn a small vessel that he had seized in his capacity as a local customs collector.³³ Due to the existence of two or more Samuel Swanns during this period, there is, admittedly, some uncertainty over whether the venal official was the same person who was involved with Irwin.³⁴ Even if they were different individuals, however, they belonged to the same family which, coincidentally, also included William Swann, the Carolina customs agent whom Virginia officials accused of misappropriating effects and charging excessive fees in connection with salvage activities conducted on the wreck of H.M.S. Garland.

One set of suspicious relationships extended beyond the confines of the greater Chesapeake to include the home country as well. Robert Quary, the former pirate collaborator who succeeded Edward Randolph as surveyor general, was friendly with Micajah Perry, the prominent

³³ Jones, Present State of Virginia, 242 n. 219; CRNC, II, 767; N.C. St. Arch., CCR 142, doc. nos. 43, 45, 47, 50, 51.

³⁴ Powell, ed., Dictionary of North Carolina Biography, VI, pending.

English merchant who in 1689 submitted a petition to English authorities seeking a pardon on behalf of three pirates apprehended in the Chesapeake.³⁵ As one of the most powerful London merchants in the tobacco trade, Perry quite likely belonged to the same group of English traders who used their influence to prevent Henry Munday from being prosecuted and who, years later, promoted the career of another aspirant to the surveyor general's post, Richard Fitzwilliam. Like Perry, Fitzwilliam (whose position on the Council of Virginia, it should be recalled, was secured by pirate defender Holloway's vote) also sought to obtain a pardon for a sea brigand, the convicted and condemned pirate John Vidal in 1727.³⁶

The connections between individuals linked with one or more forms of maritime illegality reflect an inherent interrelationship between the various types of lawlessness themselves. Obviously, bartering with pirates for foreign booty or removing similarly uncustomed goods from a shipwreck constituted trade law violations in a technical sense, but a more conscious and intentional tie also existed, a circumstance which some royal and colonial authorities clearly recognized at the time. Edward Randolph, for instance, noted the association in his

³⁵ NCHCR, 1702-1708, xxi; CSPC, XIII, #60, p. 19.

³⁶ CSPC, XXXV, #707, p. 353; VMHB, XXXII, 242.

repeated references to North Carolina as a haven for both pirates and illegal traders. Near the end of the seventeenth century one English official linked the two most troubling forms of maritime lawlessness even more clearly by characterizing piracy and illegal trade as "the beloved twins" of New York merchants.³⁷

By 1690, one scholar has observed, the only growth areas in the New York economy were those related to Red Sea and Indian Ocean freebooting enterprises.³⁸ The Chesapeake also participated in eastern piracy, both directly and indirectly, as was apparent in the Henry Munday episode and in Governor Spotswood's unpopular efforts to send shipmasters accused of trading with Red Sea pirates back to England for trial. Predictably, the involvement of bay area residents in both local and distant pirate ventures paralleled not only that of fellow Anglo-Americans, but also one of the Chesapeake's most active and regular illicit trading partners, the Dutch of Curaçao. The Caribbean island served not only as a clearinghouse for contraband

³⁷ Cited in Karraker, Piracy was a Business, 46. In this particular regard, it is worth noting that an inspection of Blackbeard's sloop after the battle with Royal Navy forces in 1718 reportedly revealed correspondence between the pirate captain, North Carolina Governor Charles Eden, colonial secretary Tobias Knight, and some New York traders, indicating not only the trade/piracy connection, but suggesting cooperation between the greater Chesapeake and other Anglo-American colonies in its pursuit (Defoe, History of the Pyrates, 83).

³⁸ Ritchie, Captain Kidd, 37.

trade goods but pirate plunder as well. Edward Randolph reported that freebooters from the Red and South Seas regularly conducted illegal commerce with "Carasaw and other ill places" and the Earl of Bellomont complained that, although the governor of the Dutch island pretended "great innocence or ignorance . . . there was never anything . . . so publicly managed as the sale of [pirate captain William] Kidd's spoils there."³⁹

If illicit trade and piracy were closely related in the minds of American colonists as "beloved twins," another historian has suggested that the recovery of treasure from sunken wrecks, legal or otherwise, constituted a "sister activity."⁴⁰ The aftermath of the wreck of the Spanish plate fleet in the early eighteenth century offers one of the more demonstrable examples of the connection between pirates and wrecking. In fact, no single occurrence drew sea marauders to the shores of North America to the extent that the 1715 Spanish disaster off the Florida coast did.

As Alexander Spotswood informed royal authorities, the swarming of pirates around the sunken fleet and the Spanish salvage camp had worrisome implications for the greater Chesapeake. Among "those who stole away the Silver which the Spaniards had fished up from the Wrecks of the Galleons, in the Gulf of Florida" and subsequently made his way up the

³⁹ CRNC, I, 468; CSPC, XVII, #890, p. 489.

⁴⁰ Karraker, Piracy was a Business, 46.

coast was Charles Vane, whose rendezvous with Blackbeard at Ocracoke Inlet caused the Virginia governor to fear the establishment of a pirate stronghold in the greater Chesapeake.⁴¹ Samuel Bellamy, whose crew "very much infested" the Virginia coast in 1717, was another.⁴² So was Josiah Forbes, whom Spotswood arrested and imprisoned after the suspect's arrival in Virginia (along with three others who also had sought to profit from the Spaniards' misfortune) bent upon "Piratical designs."⁴³

During the half-century between 1670 and 1720, governors and crown officials periodically expressed the fear that pirates or Dutch traders might tap veins of popular discontent and foment insurrection in the greater Chesapeake. Such anxiety implies that forms of lawlessness like wrecking, smuggling, and piracy also may have been related to other illegal or subversive activities not necessarily associated with maritime affairs per se. The case of Richard Clarke of Anne Arundel County, Maryland provides an unparalleled, documented example of an individual who, during the course of his criminal career, managed to pursue an impressively broad spectrum of illegitimate enterprises. Known primarily for his piratical

⁴¹ Defoe, History of the Pyrates, 135; Ellms, Pirates Own Book, 349.

⁴² CSPC, XXIX, #595 i, pp. 317-18; Defoe, History of the Pyrates, 585.

⁴³ Spotswood, Letters, II, 170-71.

machinations, Clarke was also accused of forgery and tobacco fraud, conspiring with the Indians to attack Maryland settlements, and counterfeiting Spanish pieces of eight.⁴⁴

Clarke's case is, of course, exceptional and its notoriety may be attributed to the sheer diversity of his

⁴⁴ Md. A. XXV, 265-66; XXVI, 379, 451, 487, 513-14; XXVII, 133-34; CRNC, I, 666; CSPC, XXII, #1210, p. 550. Since the wrecks and subsequent salvage of Spanish treasure ships furnished plausible pretexts for the introduction of otherwise scarce specie into the Anglo-American colonies, it is not unreasonable to suppose that enterprising counterfeiters in the Chesapeake might have taken advantage of such occurrences to put their wares into circulation. In fact, some documented instances of counterfeiting gold and silver coins in the greater Chesapeake do coincide roughly with Spanish treasure wreck and recovery episodes on the North American coast and in the Caribbean. North Carolina authorities prosecuted individuals accused of passing "Considerable summs of Counterfeit Spanish Money" in the colony in 1696, for instance, a year after two treasure galleons wrecked near Cuba and at a time when Spanish officials were still trying to reclaim riches that Englishmen from Port Royal had salvaged illegally from other sunken vessels several years earlier (NCHCR, 1670-1696, 270, 302; NCHCR, 1702-1708, xxviii, n. 53; Robert F. Marx, Shipwrecks in the Americas (New York, 1983), 352, 381-82).

Not long after much of the Spanish treasure fleet came to grief on the shores of the greater Chesapeake in 1750, a notorious counterfeiter named Low Jackson was tried, condemned, and put to death in Virginia for fabricating Spanish "Double Double-loons" (Va. Gaz., 5/9/1751, p. 3; Pa. Gaz., 5/16/1751, p. 2; Kenneth Scott, "Counterfeiting in Colonial Virginia," VMHB, LXI, 7-8). As it turns out, though, warrants for Low's arrest had been issued before the Spanish fleet sailed and there is no evidence to indicate that he conducted any counterfeiting operations after it wrecked. It is interesting to note, however, that the agent assigned to capture Low was engaged simultaneously in the effort to track down the "Spanish money pirated" by opportunistic American mariners from the Guadalupe while it was stranded in Ocracoke Inlet (after mutinous Spanish crew members naively entrusted the Americans with most of their silver chests), suggesting an association between the two types of activity in the minds of British authorities (AGI, "Consulados," legajo 861, fos. 54, 154, 155; Scott, "Counterfeiting in Colonial Virginia," VMHB, LXI, 9).

illegal activities and the magnitude of the danger that colonial authorities believed he represented. But the local support that he enjoyed "notwithstanding his most exquisite villany" and the difficulty that government officials experienced in apprehending such a well publicized and reputedly dangerous felon also suggests that many of Clarke's fellow Chesapeake residents did not regard his pursuits (plotting with unfriendly Indians no doubt excepted) as particularly extraordinary, objectionable, or threatening.⁴⁵ A distressed Governor Seymour noted this lack of concern in a 1707 letter to his Virginia counterpart requesting Clarke's capture and extradition, complaining that Virginians evidently had "forgott" a previous proclamation to the same effect despite Seymour's contention that the wanted man spent a good deal of time in their colony.⁴⁶

The governor specifically identified "the Rose & Crowne . . . in Elizabeth River" as an establishment that Clarke was known to frequent, thereby calling attention to a social and functional milieu in which many of the illegal activities on the colonial maritime frontier were planned and conducted. As principal places of assembly, taverns or ordinaries served an essential social and communal function

⁴⁵ CRNC, I, 666.

⁴⁶ VMHB, XVI, 76.

in the colonial Chesapeake.⁴⁷ Often located near county courthouses, they were typically of two sorts as described by Virginia gentleman William Byrd II: "an ordinary well supplied with wine and other polite liquors for the worshipful bench" and "a rum ordinary for persons of a more vulgar taste."⁴⁸ Many of those who frequented the latter type constituted what one historian has identified as a "sub-society" composed in part of sailors, vagrants, beggars, indentured servants, slaves, free blacks, tradesmen, laborers, and fleeing debtors.⁴⁹ Neighborhood taverns represented major focal points for this group's dealings, some of which, as one would expect from a sub-society "complete with fences and receivers of stolen goods," concerned illicit affairs.⁵⁰

⁴⁷ Rhys Isaac, The Transformation of Virginia, 1740-1790 (Chapel Hill, N.C., 1983), 30, 88-90, 94-98.

⁴⁸ Frederick H. Schmidt, "British Convict Servant Labor in Colonial Virginia," Ph.D. dissertation (College of William and Mary, 1976), 244; Isaac, Transformation of Virginia, 88-90.

⁴⁹ Schmidt, "British Convict Labor," 245. Significantly, an important component of the Clarke gang's master plan was to attract "Housekeepers of desperate Fortunes and other disaffected Persons to their Party." In fact, the select investigative committee of the Maryland assembly determined that "Clarke by his Prodigality in disbursing . . . the Counterfeit Money had so insinuated himself into the Minds" of indentured servants and debtors that he succeeded in inducing a number of them to join with the plotters "in their Cursed and wicked Design and Intent" (Md. A., XXVII, 131-35).

⁵⁰ Schmidt, "British Convict Labor," 245, 253.

Because of their lower-class clientele and the illegal or socially unacceptable activities that it pursued, the less genteel taverns developed reputations as "Nurseries of Vice" and "the common Receptacle, and Rendezvous of the very Dreggs of the People."⁵¹ Seamen in particular were so notorious for their misbehavior at such establishments that Virginia legislators enacted laws forbidding ordinary keepers to entertain them without the express permission of their ship's commander.⁵² It is entirely consistent with the dubious distinctions that attended both sailors and ordinaries that the two groups of pirates who landed in the bay in 1720 appear to have spent most of the time prior to their arrest revelling at local taverns near the mouth of the York River and at Hampton, respectively.⁵³

The penchant of pirates for frequenting Chesapeake taverns calls to mind the "alehouses" established along the Irish coast in previous centuries to entertain freebooters and to facilitate the exchange of their plundered goods with

⁵¹ Va. Gaz., 4/11/1751, p. 3; Patricia Gibbs, "Taverns in Tidewater Virginia, 1700-1774," M.A. thesis (College of William and Mary, 1968), 39.

⁵² Hening, Statutes, III, 400; VI, 25, 75. A similar law was enforced scrupulously in North Carolina in 1768 when the licenses of two female ordinary keepers were suspended for selling liquor to seamen without their captain's approval (Alan D. Watson, "Ordinaries in Colonial Eastern North Carolina" North Carolina Historical Review, XLV, 69).

⁵³ Defoe, History of the Pyrates, 207-08; Shomette, Pirates on the Chesapeake, 221.

local populations.⁵⁴ In the New World such establishments (along with bordellos, jails, and the docks of port towns) formed an integral part of what historian Marcus Rediker has described as an informal "seaman's network" that operated along the coast of North America and in the Caribbean to provide mariners, including smugglers and pirates, with information vital to their professions.⁵⁵

The taverns patronized by the "more vulgar" sort comprising the colonial Chesapeake's underworld undoubtedly epitomized the social environment in which outlaws such as Richard Clarke and other undesirables circulated and exchanged information in the seaman's network of the bay region. Colonial records do not appear to contain any evidence of a Rose & Crowne tavern on the Elizabeth River, as Governor Seymour had indicated, but in 1702 a Swiss traveller noted the presence of just such an inn across the James River in Virginia's Elizabeth City County.⁵⁶ The specific site of the tavern was next to Pembroke Church in Hampton, a port town which was distinguished, despite its

⁵⁴ Senior, Nation of Pirates, 56.

⁵⁵ Rediker, Deep Blue Sea, 133-34.

⁵⁶ Francis L. Michel, "Report of a Journey from Switzerland to Virginia, 1701, 1702," VMHB, XXIV no. 1, p. 20 n. 30; Luther J. Kibler, "The History of Hampton and Elizabeth City County," typescript mss. (Richmond, 1937), 48, 65b. The mouth of the Elizabeth River lies due south of the city of Hampton, formerly a part of Elizabeth City County, across the body of water known as Hampton Roads where the James River flows into the Chesapeake Bay.

modest size, by the remarkable number of ordinaries that operated there. Although Virginia law permitted only two taverns per town, county records indicate that nineteen licenses for ordinaries were granted between 1694 and 1702.⁵⁷ While it is impossible to know how many of these actually were in business simultaneously, the number was obviously too high for the liking of Governor Nicholson who in 1699 insisted that local justices revoke the licenses of all but the prescribed number.⁵⁸

The reason for the presence of so many ordinaries in such a relatively small town was that Hampton, according to one historian, was "thronged with seadogs."⁵⁹ Until the emergence of Norfolk as a rival shipping center in subsequent decades, Hampton functioned as Virginia's principal port city and the seat of the collector's office for the lower James River district where vessels were required to enter and clear.⁶⁰ Not only was the lower

⁵⁷ Rosemary C. Neal, Elizabeth City County, Virginia: Deeds, Wills, Court Orders, etc. 1634, 1659, 1688-1702 (Bowie, Md., 1986), 32-34, 63.

⁵⁸ Kibler, "History of Hampton and Elizabeth City County," 49.

⁵⁹ Starkey, First Plantation, 16.

⁶⁰ Yorktown, which gained prominence as a Virginia port during the first half of the eighteenth century, also hosted a large transient population and contained a quantity of ordinaries sufficient to evoke comment and concern (Edward M. Riley, "The Ordinaries of Yorktown," WMQ, 2d ser., XXIII no. 1, 23). One observer remarked that "The taverns are many here, and much frequented, and an unbounded Licentiousness seems to taint the Morals of the young

James one of the busiest customs districts in the colony, but it was also, according to Governor Spotswood, the one "most Commodious for the designs of such as intend to carry on an illegal Trade, because of vicinity to the [Virginia] Capes."⁶¹ During Spotswood's administration another traveller declared that Hampton "had the greatest business in Virginia" and carried on a thriving trade with Pennsylvania and New York, two colonies which, as previously indicated, also gained renown as alleged centers of contraband trafficking and support for pirates.⁶²

Hampton also appears to have been a popular destination for pirates seeking sanctuary and recreation. In addition to the freebooters who made merry at a Hampton tavern in 1720, pirate Lionel Wafer reported that he was heading down "the great Bay of Chisapeek to Point-Comfort," a promontory in the eastern part of Hampton, where he intended to settle before his unfortunate encounter with a royal guardship in

Gentlemen of this Place" (Anon., WMQ, 1st ser., XV, 222).

⁶¹ Spotswood, Letters, I, 15. Although Spotswood identified the Lower James River district as the one where illicit trade was "chiefly carryd on," two decades earlier Edward Randolph noted the significance of Virginia's Eastern Shore for much the same reason. That district, according to the surveyor general, required "great diligence & Circumspection" not only because it contained "many bays & Creeks in it where Scotch & N : England men frequent," but also since it lay "Nigh ye entry of ye Capes" (Ibid., 10; Randolph, Letters, VII, 367).

⁶² Tyler, History of Hampton, 31.

1688 spoiled those plans.⁶³ Considering the role that the Lower James River district in general and the town of Hampton in particular played in promoting maritime lawlessness in the region, it was surely no accident that the site chosen to display Blackbeard's severed head as a warning to maritime lawbreakers and their abettors was a sandy point at the entrance to the town's harbor.

Because of Hampton's importance in regional trade and its proximity to the Virginia Capes, the town's association with pirates and smugglers is better documented than that of most ports in the greater Chesapeake. Even so, little is known about the seaman's network that existed there, much less about any criminal activities that it supported. One reason for this is that Hampton, like other ports in the Chesapeake, did not compare to New York, Philadelphia, or Boston in terms of size and concentration of wealth and property. Hence, as A. Roger Ekirch has pointed out, the population centers of the greater Chesapeake, such as they were, failed to attract the criminal element to anywhere near the same extent that major colonial cities elsewhere in English America did.⁶⁴

⁶³ Wafer, Isthmus of America, 131; Dampier, Voyages, I, 537. Fort Monroe, constructed before the American Civil War, currently occupies the location referred to as Old Point Comfort.

⁶⁴ Ekirch, Bound for America, 185-88.

Consequently, most of the extralegal activity that was planned at local drinking establishments probably was not of the sort that would have upset or necessarily drawn the attention of local residents. Unlike murder and robbery, smuggling and trading with pirates seem to have been regarded by most colonists as "victimless" offenses which few people, other than royal officials, considered truly "criminal." If the history of English smuggling provides a reliable guide, though, it was precisely through such small, lesser trafficked ports that much of the contraband trade was conducted. And with proven or suspected malefactors like Collectors George Luke and Richard Fitzwilliam and Naval Officer John Holloway in charge of duty collection and trade law compliance, opportunities for customs fraud may have abounded in this port of entry for the lower James River district.

Despite the general paucity of information about maritime lawlessness in the area's principal ports, glimpses of illegal activity elsewhere suggest that, like Hampton, other harbor towns may have served as local or regional hubs of illicit enterprise. Part of the extensive network that supported Richard Clarke, for example, seems to have been centered in Annapolis where the outlaw and his cohorts allegedly conducted "Cabals" to plot their conspiracy against the colonial government and recruited local debtors

and indentured servants for their pirate expedition.⁶⁵

Bath, North Carolina, where Blackbeard reportedly resided for a time, also seems to have been a likely venue for similar activity, especially during Governor Eden's administration.⁶⁶ Ocracoke Inlet, the principal thoroughfare for ships sailing through the Outer Banks to and from Bath, was the site of the infamous meeting between Blackbeard and Charles Vane and the place where, Alexander Spotswood feared, the pirates planned to create a regional bastion. The colony's first official port of entry, Bath was also the seat of the collector's office for Pamlico Sound where Carolina governors Dobbs and Burrington suspected that smuggling was being conducted on an imposing scale.⁶⁷ In addition to Annapolis and Bath, and especially as Hampton's prominence diminished after the early decades of the eighteenth century, other maritime entrepots such as Norfolk and, by the Revolution, Baltimore, began to emerge as centers of both legal and illicit maritime activity.⁶⁸

⁶⁵ Md. A., XXVII, 134-35.

⁶⁶ C. Wingate Reed, Beaufort County: Two Centuries of its History (Raleigh, 1962), 50; NCHCM, 1724-1730, xxv.

⁶⁷ For evidence of the continued participation of Bath merchants in contraband trade in the decade preceding the Revolution see below, p. 427.

⁶⁸ Middleton, Tobacco Coast, 200-01, 209, 232, 258-59; Wertenbaker, Norfolk, 40-44, 47. Norfolk attracted the attention of royal authorities not only as a bulwark of resistance to impressment, but also as center of illicit

By the seventh decade of the eighteenth century, however, it could be argued that widespread maritime illegality in the greater Chesapeake had become a thing of the past. The "golden age of piracy" in the region had long since ended and official handling of the 1750 Spanish plate fleet wrecks demonstrated (in contrast to the virtually unrestrained pillaging that characterized the 1698, 1709-10 and 1715 episodes) that colonial governments could exert at least some restraining influence on the rapacious impulses of the area's coastal inhabitants. Even the intractable problem of contraband trade finally appeared to have been solved. Virginia governor Francis Fauquier announced in 1764 that the volume of illicit commerce conducted throughout the Chesapeake had become so negligible that "the Men of War stationed on our Coast think it hardly worth watching," an appraisal corroborated the same year by Maryland governor Horatio Sharpe with regard to his colony.⁶⁹

But had extensive maritime lawlessness really ceased to exist in the bay region? Had illicit trade truly become so insignificant, as Governor Fauquier asserted, that it no longer warranted serious concern? Certainly those responsible for customs receipts in the home government did

trade. See below, pp. 418, 422-25.

⁶⁹ C05/1330, pp. 539-41; George Reese, ed., The Official Papers of Frances Fauquier (Charlottesville, Va. 1983), III, 1169; Middleton, Tobacco Coast, 213-14.

not think so. A 1764 memorial from Treasury officials to the Privy Council observed that "through neglect, connivance, and fraud, not only is the revenue impaired, but the commerce of the colony is diverted from its natural course and the salutary provisions of many wise laws to secure it to the Mother Country are in great measure defeated."⁷⁰ Admittedly, the apparent frustration of crown officials may have been somewhat disingenuous. Charles Andrews has argued, for example, that British officials habitually blamed smuggling, piracy and a host of other factors for chronic revenue shortfalls when the real problems were the mismanagement and corruption of the home government itself.⁷¹ No doubt this was true to a significant extent, but the incompetence and hypocrisy of the English administrators only would have encouraged similar inefficiency and official venality in the Chesapeake and certainly did not preclude continued contraband trafficking by the colonists.

The evidence from the Chesapeake confirms that corruption and customs fraud continued to plague the system on the western shores of the Atlantic. The laws of North Carolina in 1754 included a statute forbidding the exportation of tobacco not packed in casks "forasmuch as the

⁷⁰ APCC, IV, #520, p. 569; Andrews, Colonial Period of American History, IV, 219.

⁷¹ Andrews, Colonial Period of American History, IV, 278-79.

permitting of Tobacco in Bulk or Parcels to be waterborne . . . may give great Opportunity to the clandestine running the same on Board ships or Vessels."⁷² The passage of similar legislation in 1766 and again in 1774 represented a tacit admission, articulated explicitly in the body of the statutes themselves, that "the Laws heretofore in Force for . . . preventing frauds in his Majesty's Customs" had been found "ineffectual to answer the Purposes thereby intended."⁷³ In 1766 the Virginia assembly, enacting its own law for preventing customs fraud, insisted that naval officers furnish receipts for all fees that they collected because, experience had shown, it was "almost impossible to detect officers, who charge greater fees than . . . are allowed."⁷⁴

Skeptics might dismiss the repeated re-enactment of anti-smuggling and anti-fraud legislation by colonial assemblies as nothing more than token responses designed to placate British authorities who were clearly dissatisfied with what they regarded as an unacceptably low level of trade law compliance in the greater Chesapeake. Evidence from other sources, however, suggests that the problem was not merely one of politics and perceptions but of substance. Barely a month after declaring illegal trade to and from the

⁷² CRNC, XXIII, 402-03.

⁷³ Ibid., 728-41, 948-52.

⁷⁴ Hening, Statutes, VIII, 251.

Chesapeake to be practically nonexistent, Governor Fauquier flatly contradicted his own assessment by reporting to the Board of Trade that "European Goods . . . are being brought in promiscuously by every Ship which arrives from the Mother Country."⁷⁵

But of all the indications of the status of illicit trade in the greater Chesapeake during the years immediately preceding the Revolution none was more revealing than the comprehensive body of evidence compiled in 1770 by a special investigator for the recently established American Board of Commissioners of the Customs.⁷⁶ Appointed the Board's first inspector general in 1767, John Williams was assigned the task of examining and reporting on the customs service of most of the coastal colonies. Arriving in the Chesapeake in 1770, he began his investigation in the James River where he accused a collector of accepting a bribe to release one ship suspected of illicit trade and permitting another to

⁷⁵ Reese, Fauquier Papers, III, 1199. The governor also called for an increase in the number of customs officials specifically assigned to search merchant ships for contraband because of the frequency with which illegal trade was being conducted. His statement that the only two "searchers" operating in the colony at the time were located in the lower James River and the Eastern Shore attests to the continued significance of these districts as suspected centers of illicit trade (Flippin, Financial Administration of Virginia, 36).

⁷⁶ Joseph R. Frese, "The Royal Customs Service in the Chesapeake, 1770: The Reports of John Williams, Inspector General," VMHB, LXXXI, 280-318; Billings, Selby, and Tate, Colonial Virginia, 321.

unload without proper papers.⁷⁷ These allegations represented an anomaly, however. Nowhere else in his travels through Virginia and Maryland rivers did Williams impugn the integrity of local customs officers whom he unflinchingly portrayed as "men of exceeding good character, both as to their public and private sections, and . . . very exact in the business of the office."⁷⁸ But the praise lavished upon these officials also represented an aberration because the inspector general consistently found the customs operation so deficient and abused in practically every other respect that his report easily could be mistaken for any one of the standard anti-smuggling diatribes of the preceding century.

Like so many of his predecessors, Williams initially remarked on the excellent opportunities for smuggling that the region afforded, noting that "in all those rivers there are many harbours, bays, and creeks for vessels of almost any burthen, and landing places almost at every door where they land goods imported, and deliver goods for exportation."⁷⁹ More specifically, he detected a discrepancy between the unusually large number of foreign ships that arrived in the Chesapeake, according to their

⁷⁷ Frese, "Royal Customs Service in the Chesapeake," 282.

⁷⁸ Ibid., 285-86, 290, 294, 297, 301, 303, 305, 308.

⁷⁹ Ibid., 287, 318.

cocquets, "almost wholly in ballast" and the abundance of foreign goods available to local consumers.⁸⁰ "The imports of dutiable goods by their entries are very inconsiderable although their consumption must be great," Williams concluded, since French wines could be purchased "at almost every store upon the river." The only reasonable explanation, of course, was that smuggling was being conducted on a regular and extensive basis which, the inspector general added, "Likewise . . . fully accounts for the large quantity of teas, foreign linens &ca, which every store is full of."⁸¹

Williams' observations suggest that remarkably little had changed from the days when Edward Randolph, Robert Quarry, Francis Nicholson, and Alexander Spotswood inveighed against the trade law violating proclivities of the Chesapeake colonists. The region's foreign trading partners -- the Dutch and French, primarily, and the Spanish and Portuguese as well -- remained the same as did the principal facilitators of illicit commerce, the Scots, whose "frauds . . . in the exportation of tobacco from Virginia and Maryland," Williams determined, "prevails to a very considerable degree." Even the same methods of deception continued to be employed. Those seeking to avoid payment of the penny per pound duty on enumerated intercolonial exports

⁸⁰ Ibid., 296, 299, 304, 306, 309.

⁸¹ Ibid., 291-92.

commonly shipped their tobacco falsely, the inspector general reported, "under the denomination of casks of bread, flour, corn, beans &ca."⁸²

Part of the problem was that, as a result of administrative errors or oversights, it was simply too easy to commit customs fraud in certain areas. Williams' perceptions in this regard are remarkably similar to those articulated by Edward Randolph over seven decades earlier. Because customs houses in some districts were so distant from the places where most of the business of landing imports and loading exports was conducted, Williams maintained that shipmasters entered only "such part of their cargoes as they think proper; all which were usually landed without the least control or inspection of any officer."⁸³ Consequently, the customs service throughout the Chesapeake lay "greatly exposed to the imposition of smugglers."⁸⁴

As in Randolph's day, low salaries continued to affect adversely the performance of local officials. Williams identified two districts, the Chester River in Maryland and the South Potomac in Virginia, where the "narrow income" of customs officers was "in no degree sufficient" to support the men and their families.⁸⁵ As a result, one collector

⁸² Ibid., 315.

⁸³ Ibid., 305, 310, 311, 313.

⁸⁴ Ibid., 290.

⁸⁵ Ibid., 298, 308.

continued to be involved in commercial affairs himself, contrary to royal instructions promulgated late in the previous century, as the owner of a brig which sailed "under the management and names of the principal merchants in the place." Since the vessel operated under the effective control of the merchants, Williams believed it served as "a security to them; that if they are inclined to smuggle the collector will not proceed against them, neither can he do so without risking the loss of his own interest in their hands."⁸⁶

The solutions that Williams proposed to remedy the inadequacies of the system were likewise reminiscent of those advanced by royal and colonial officials in the late seventeenth and early eighteenth centuries. So that local revenue and inspection officers could oversee cargo loading and unloading procedures more effectively, the inspector general recommended centralizing customs operations by "confining the landing and shipping of all goods in these provinces at certain quays and wharfs."⁸⁷ Particularly for those districts in which customs houses were located far from the scene of most shipping activity, but for all others as well, Williams emphasized the necessity of establishing a "water guard," a term not defined in the report but one which presumably referred to small, armed vessels capable of

⁸⁶ Ibid., 308.

⁸⁷ Ibid., 295, 316.

pursuing contrabandists into the shallows much like those frequently proposed and periodically stationed in the bay in the late 1600s and early 1700s.⁸⁸

Like earlier customs investigators, Williams insisted that trade law violations in the Chesapeake represented more than occasional or petty infractions which ultimately had little impact on total royal revenue receipts. By moving the customs house for the Lower James district from Hampton to Norfolk (where Williams estimated that 95 percent of all of the district's dutiable goods were landed), for instance, the inspector general was convinced that having officers "on the spot" would constitute such "a great restraint upon clandestine practices" that local customs revenues would actually double.⁸⁹ Taking a more comprehensive, regional approach, Williams ascertained that although Maryland and Virginia planters raised over 80,000 hogsheads of saleable tobacco annually, local customs officials actually cleared fewer than 63,000 each year. The "deficiency" of some 17,000 hogsheads, the investigator concluded, could be "accounted for no other way than it is clandestinely carried away." Estimating that 5,000 such casks were smuggled to other colonies to evade the Plantation Duty, Williams surmised that the remaining 12,000 were "secretly landed in Great Britain . . . by which practice the revenue in England

⁸⁸ Ibid., 292, 311.

⁸⁹ Ibid., 314.

may sustain a loss of about 300,000 sterling per annum."⁹⁰

With revenue losses of this magnitude, British officials had to be deeply concerned about the level of customs fraud and duty evasion that Williams had discovered in the Chesapeake. But the home government must have been equally disturbed by other aspects of the inspector general's report which suggested the re-emergence of one of the more unpleasant concomitants of those practices from the crown's point of view: widespread, popular opposition to royal authority in trade law enforcement. Despite the substantial volume of unlawful commerce which was being conducted throughout the bay area, Williams noted that for the past several years officials in some districts had made few or no seizures whatsoever, a circumstance he attributed in part to the officers' inability to obtain "the least support" in their efforts from the public, the courts, and even the governors.⁹¹

The inspector general cited one case in which the customs comptroller for Maryland's Pocomoke River received the presiding judge's assurance that the trial of a shipmaster accused of falsifying his vessel's register would be postponed until the officer could bring a witness back from the Eastern Shore to testify for the prosecution. In

⁹⁰ Ibid., 315.

⁹¹ Ibid. 288, 303.

the comptroller's absence, however, the judge dismissed the suit on the grounds that "the offence was not cognizable by an admiralty court in Maryland." The government's case still could have been salvaged, Williams maintained, if the colony's attorney general had been a "good man . . . who would act with spirit in . . . the interest of the crown." Instead, the customs investigator pointedly observed (again in a manner highly reminiscent of royal officials in Maryland during the last decades of previous century) that the "King's attorney" had been appointed by the colony's proprietor, Frederick the sixth Lord Baltimore, and would not "exert himself in any Crown causes where his lordship or the peoples' interest" was concerned.⁹² (The crown's cause fared little better, as it turned out, in royal Virginia where Governor Fauquier's successor, Norborne Berkeley, Baron de Botetourt, refused Williams' request to examine the account books of the colony's tobacco inspectors.)⁹³

Another aspect of the Maryland case highlighted the gap between the "peoples' interest" and that of the crown. Not only did customs officials chronically "labour under great discouragements in doing their duty," but in the aftermath of this particular legal proceeding "the officer was exposed by the failure in this cause to the insults and

⁹² Ibid., 303-04.

⁹³ Ibid., 315.

abuse of the common people."⁹⁴ As an isolated incident, such an occurrence might not have elicited serious concern, but similar episodes in the greater Chesapeake and elsewhere in the colonies reflected a pattern of increased popular resistance to the navigation laws that had begun to manifest itself since the imposition of the Stamp Act in 1765. That same year Robert Heron, collector for the problematic Pocomoke district, had complained to his superiors that "the numberless abuses and continual threatenings to shoot me, &c. makes me sensible of the melancholy situation of this office," a post, he maintained, which was seated "amongst nothing but a gang of smugglers."⁹⁵ Unfortunately for those who sought to uphold the crown's interest in the colonies, such antagonism was not always limited to taunts and threats.

Virtually absent in the greater Chesapeake for a half century or more characterized, for the most part, by benign relations between customs officials and colonial planters, merchants, and shipmasters, violence against royal revenue officers and those suspected of collaborating with them surfaced again in the 1760s and '70s. Collector Heron was victimized himself at a public auction when he tried to sell a brig he had seized for trade law violations. Not only

⁹⁴ Ibid., 303.

⁹⁵ Atton and Holland, King's Customs, 466; Barrow, Trade and Empire, 263; Frese, "Royal Customs Service in the Chesapeake," 302 n. 79.

would no one bid on the vessel, most of those in attendance allegedly "being concerned in the illicit trade" themselves, but the captain of the condemned ship, with a number of "Scotch" supporters, attacked the customs officer and would have murdered him, Heron asserted, had a compassionate individual not intervened. Imploring British authorities to "contrive ways and means for our better protection from the insults of such a Villanious set of People," the collector reported that he never ventured out without being "doubly armed with a hanger, a pair of pistols in my Pockets, and another before me," evidently having reached the same conclusion as a royal guardship commander eighty years earlier that "noe officer of the Customes in Maryland can live without a good guard."⁹⁶

By the mid-1760s colonial opposition to royal customs regulations in the greater Chesapeake was becoming so intense that even the mere suspicion of collaboration with crown officials was sufficient to trigger a violent reaction. In April 1766 William Smith, the captain of a merchant schooner, was accused by the ship's owner, John Gilchrist, and others of having reported the presence of contraband goods aboard another vessel owned by Gilchrist to Captain Jeremiah Morgan, commander of the royal sloop Hornet in Norfolk. Although Smith insisted then that he had done

⁹⁶ Atton and Holland, King's Customs, 466: Barrow, Trade and Empire, 28.

no such thing, an assertion which Morgan later confirmed, Gilchrist and company bound the merchant captain's hands, tied him behind a cart, and hustled him down to the county wharf to be tarred and feathered. "They then put me upon a Ducking Stool and threw rotten eggs and stones at me," Smith recounted, "by which means I have almost lost the sight of my eyes."⁹⁷

The poor captain could not even hope for rescue by municipal authorities since his tormentors included the town mayor who, "instead of suppressing the insult, encouraged it and threw stones . . . himself." Gilchrist's gang then dragged Smith to the Hornet's anchorage and "bidding defiance," threatened to treat Morgan likewise if he came ashore. The incident ended when Norfolk alderman John Phripp heaved Smith "headlong over the wharf," nearly causing the hapless mariner to drown.⁹⁸ Concerned that the unfortunate victim might be suspected of exaggeration, Morgan insisted that "poor innocent Captain Smith" had not recounted "half the story in his letter that I have heard from others."⁹⁹

⁹⁷ "Letters of Governor Francis Fauquier from the Bancroft Transcripts, Library of Congress," WMQ, 1st ser., XXI, 167; Fauquier Papers, III, 1351-52.

⁹⁸ "Fauquier Letters," WMQ, 1st ser., XXI, 167-68; Reese, Fauquier Papers, III, 1352.

⁹⁹ "Fauquier Letters," WMQ, 1st ser., XXI, 166; Reese, Fauquier Papers, III, 1350.

Just over a year later, Captain Morgan himself became the principal object of local antipathy when he organized a press to "take up all them that did not belong to Ships" on the Norfolk waterfront. As usual, desertion was responsible for the shortage of sailors aboard the Hornet, a circumstance which the guardship officer blamed on local inhabitants. "Norfolk hurts the Trade prodigiously," the commander maintained, because residents encouraged the seamen to jump ship, assisted them in doing so, and profited by their actions as well. Morgan claimed that Norfolk had become the regional center for procuring sailors, attracting from all parts of the Chesapeake shorthanded shipmasters whose expenditures while in port invigorated the local economy.¹⁰⁰

As had often been the case in the pre-1750 era, the colonists did not submit to the press passively. Although the guardship officer insisted that he and his men had not entered "the door of any House but was either a Publick House or a Bawdy House," yet the royal mariners soon were confronted by a "Mob" led by the mayor and composed of "Whites & Blacks all arm'd." Morgan retreated to the safety of his ship, explaining afterward that he did not "care to go to Norfolk Goal from the Account I had of the Treatment my poor Master and several more of my People had at different times received . . . there." Two days later, a

¹⁰⁰ Reese, Fauquier Papers, III, 1500.

county court tried the commander in absentia and condemned him "upon the Riot Act in Norfolk," relying heavily, according to Morgan's intelligence, on the testimony of the "poor Whores & Rogues depending upon the Sailors & those depending upon the Smugglers I have made Seizures from." Pleading his case against the colonists to Francis Fauquier, the Royal Navy officer implored the governor "to remember the many attempts they made upon my Life and yours" and added that if the government were to prosecute all the local residents who had participated in the disturbance, "there would not be twenty left unhang'd" in Norfolk.¹⁰¹

Given the relatively short interval between the unpopular British customs reforms instituted during Prime Minister George Grenville's administration and the unpleasant experiences of Collector Heron and Captains Smith and Morgan, it would be logical to link such riotous outbursts in the bay region with the more universal revolutionary fervor that was beginning to seethe throughout the colonies. Indeed, Morgan reported that the night before the attack on Captain Smith "about thirty of . . . the principal people of Norfolk," including the mayor, convened at a tavern [where else?], resolved that Parliament's imposition of taxes on America was "unconstitutional and illegal," and decried the fact that, although Virginians had been the first to oppose the Stamp Act, they had since

¹⁰¹ Ibid., 1501-02.

become "mute and pusilanimous while . . . other Colonies asserted their rights like Sons of Liberty."¹⁰²

Clearly, the causal relationship between the new imperial measures and the belligerent hostility evinced toward royal agents and suspected supporters of crown policy is undeniable. But to view these turbulent episodes solely as examples of the anti-imperial ferment of the 1760s is to ignore their significance as manifestations (albeit in a more highly politicized context) of a well established tradition of persistent, frequently violent opposition to lawful authority that had characterized the coasts and waterways of the greater Chesapeake for well over a century.¹⁰³

In the decade or so before the Revolution, Virginia accounted for far more ship seizures than any of the other colonies that joined the rebellion. Based on the available evidence from Virginia's vice-admiralty records, however, one scholar has surmised that many, if not most, of the ship condemnations resulted not from infractions related to the Stamp and Townshend Acts, but from violations of the long-

¹⁰² "Fauquier Letters," *WMQ*, 1st ser., XXI, 165-66; Reese, *Fauquier Papers*, III, 1349.

¹⁰³ In attempting to distinguish between the political and economic motives of greater Chesapeake activists it should be recalled that politics and maritime illegality had been inextricably linked in the relationship between the Chesapeake colonies and the home government ever since the promulgation of the first Navigation Act in 1651.

standing Navigation Act of 1660.¹⁰⁴ Public notices in early 1767 demonstrate that in Captain Morgan's case, moreover, the guardship officer's reputation as a menace to illicit trade preceded his arrival in the bay and almost certainly contributed to his unpopularity throughout the region. In February the Virginia Gazette printed a message from Richard Todd of Bath, North Carolina, warning Virginia merchants and shippers that Morgan had been "very assiduous" in his pursuit of contraband, that he let "nothing escape him," and that he and the Hornet were on their way to Cape Henry. "I am sincerely glad of his departure from our inlet," Todd added, "for was he to stay, we should be ruined to all intents and purposes."¹⁰⁵

The news in the Virginia Gazette also reveals that the seamen's network in the greater Chesapeake had undergone a profound and significant change. Previously communicated by means of a surreptitious, word-of-mouth system operating mainly in disreputable establishments throughout the region, critical information now was being relayed through the bay area's published media. Todd had asked the Gazette to print

¹⁰⁴ Stout, Royal Navy, 133-34.

¹⁰⁵ Va. Gaz., 2/19/1767, p. 1. Todd's notice also indicates that New England mariners continued to participate in the illegal trade of the greater Chesapeake. The North Carolinian reported that the Hornet gave chase to two "New Englandmen" whose crews had just enough time to stave in seventeen hogsheads of rum and pump out the contents before being apprehended. The smugglers were taken into custody but released because, having destroyed the evidence, "the proof [was] not sufficient to condemn them" (Ibid.).

his message so that "it may give a hint to your correspondents and customers." By granting his request, the newspaper left little doubt as to its principal aim in disseminating the information about Morgan. While the item may have been considered newsworthy in its own right, the Gazette had already demonstrated a commitment to publishing such reports as a service to its commercial patrons. In January the paper printed a notice "to inform the publick, especially the traders to North Carolina, that the Hornet sloop of war" lay at Cape Lookout with its two tenders "which strictly examine all vessels they meet with." Although brief, the bulletin also made a point of describing the guardship's support boats and their armament, presumably to help contraband traders recognize and avoid the patrol vessels.¹⁰⁶

The official reports of Collector Heron, Captain Morgan, and Inspector General Williams offer compelling evidence of an extensive, concerted, and sometimes violent opposition to law enforcement in the bay region. But if the residents of the greater Chesapeake actually engaged in maritime illegality more or less continuously from 1650 until the Revolution, why is it that such evidence appears only sporadically throughout the period? A distinctive pattern in the colonial record of maritime law enforcement

¹⁰⁶ Va. Gaz., 1/1/1767, p.2.

in the bay area suggests a likely explanation. The two intervals during which royal officials registered the most urgent and the greatest number of reports about maritime illegality -- the late seventeenth and early eighteenth centuries and from the 1760s to the Revolution -- were also the periods of greatest crown concern with the regulation of the empire and its commerce.

The intervening years, at least up until 1750, were guided by the policy of "salutary neglect." Emphasizing accommodation rather than provocation, crown authorities were content, so long as the empire prospered, to permit Anglo-Americans to conduct their commercial affairs largely as they saw fit. With so little attention being paid to smuggling, it is hardly astonishing that little was discovered. The relatively high incidence of complaints about, and seizures relating to, contraband trafficking during the periods of earnest crown attention to the matter implies an obvious conclusion: that the imperial government discovered evidence of substantial illicit trade only when it bothered to look.

When it did care to concern itself with the problem, the home government's effort to control illicit trade and piracy was complicated by its previous, and in some instances continuing, encouragement of such activities in the Old World and the New. The lionizing of English swashbucklers who attacked Spanish treasure ships and the

crown's support of contraband trading with Spanish settlements fostered attitudes favorable to both practices. With the heightened awareness of the difficulties that freebooting was causing and the determination to establish tighter control over the colonial administrative bureaucracy near the end of the seventeenth century, English officials did make a vigorous effort to eradicate piracy and enforce the trade laws.

But old habits and convictions were not so easily overcome. Chesapeake residents continued to associate with pirates until the abuses suffered at the hands of Blackbeard and others caused them to abandon their former practice. Area inhabitants also persisted in trading illegally with England's foreign rivals both during and after Queen Anne's War (as they did in subsequent international conflicts), much to the chagrin of British authorities whose concurrent support of the South Sea Company's contraband activities did little to discourage the Chesapeake colonists in theirs. Bay area tobacco growers did eventually acquiesce in an inspection system that promised to inhibit smuggling, but only after they had been convinced of the compensating financial advantages of self-imposed regulation.

Apart from English custom and precedent, the greed and indiscretions of colonial governors and other royal and proprietary officials in the bay region itself may have had a more direct influence on the attitudes of area

inhabitants. The issue was not simply that many of these officials sanctioned or occasionally engaged in forms of maritime illegality, but that they generally placed a higher priority on their own prosperity than the welfare of the colonies they served. Historians have generally portrayed Governors Copley of Maryland and Effingham of Virginia, for example, as opportunists who came to the Chesapeake bent on amassing wealth at the expense of the colonies over which they were to preside.¹⁰⁷ Similarly, North Carolina governors Eden, Burrington, and Everard have been characterized as "needy adventurers, . . . a cormorant brood in that day, at least, not equalled in America."¹⁰⁸ Virginia Station commanders Jones, Crofts, Purvis, Aldred, and Brand all appeared to fit the same mold. The example set by such men could only have served to promote the view that what constituted lawlessness was, to say the least, a matter of subjective interpretation.

Compared to the transgressions of some public officials, smuggling, trading with pirates, and helping oneself to the effects of wrecked ships must have seemed relatively innocuous to many colonists, hardly the heinous crimes that English authorities decried so self-righteously. Government policy and historical precedent in the home

¹⁰⁷ Alfred T. Goodrick in Randolph, Letters, VI, 41; Billings, Selby, and Tate, Colonial Virginia, 109.

¹⁰⁸ William Saunders in CRNC, II, ix.

country, coupled with the standards of personal behavior set by past and current leadership both in England and the bay region, engendered and reinforced a belief that the imperial navigation scheme, including the laws against piracy and wrecking, was simply a game in which everyone, with the exception of a few zealots, sought to manipulate the system to their own advantage.

Such an outlook manifested itself not only in widespread disregard for the Navigation Acts and statutes concerning piracy and wrecking, but also in popular opposition to maritime law enforcement in the provincial courts, assemblies, and perhaps, polling places as well. Common-law courts frequently exonerated those accused of perpetrating or abetting smuggling, freebooting, and wrecking. Colonial assemblies habitually obstructed legislation designed to curtail those activities. And when it came to choosing legislators to represent them, the colonists appeared to have few qualms about electing officials who had sought material advantage by actively engaging in, or becoming associated with, some type of maritime illegality themselves. Moreover, some factional alignments within the provincial governments appear to reflect the establishment of common cause against what the colonists traditionally regarded as unwarranted interference by royal officials with customary prerogatives in the maritime realm.

Benjamin Harrison identified the existence of one such clique, consisting not of elected officials but of a majority of the Council of Virginia, when in 1698 he alleged a conspiracy of silence to protect the interests of council members who engaged in customs fraud and other self-serving practices. More common, however, was the development of factions in the lower houses of colonial legislatures. The mutual hostility that developed between Governor Spotswood and Virginia's House of Burgesses in the second decade of the eighteenth century cannot be ascribed exclusively, or even primarily, to disputes over maritime affairs. Nevertheless, it does seem a remarkable coincidence that some of the most powerful members of the assembly and leaders of the faction opposed to Spotswood were men who either directly participated in or were closely connected with one or more forms of maritime illegality.

In the divisive election of 1715, for instance, Gawin Corbin, the naval officer Spotswood dismissed in 1711 for forging the "queen's letter," was not only voted into the assembly but subsequently chosen to head the powerful Committee on Privileges and Elections.¹⁰⁹ In 1718, one year after a group of merchants complained to the Board of Trade about the "many unwarrantable Practices" of South Potomac district collector Daniel McCarty, the customs

¹⁰⁹ Dodson, Alexander Spotswood, 120; Billings, Selby, and Tate, Colonial Virginia, 181-82.

officer was reelected to the House where he once again assumed the role of Speaker. Corbin, meanwhile, succeeded to an even more prestigious chairmanship than his previous one, that of the Committee for Propositions and Grievances, a post he retained in 1720 following an election in which John Holloway, defender of accused pirates and illicit traders, also was returned to office.¹¹⁰

Although the governor had achieved a reconciliation of sorts with his political foes by then, the choice of Holloway as Speaker, according to Spotswood biographer Leonidas Dodson, "must have warned the governor that the spirit of resistance was not yet dead in the lower house."¹¹¹ Perhaps it is too much to argue that the electorate's endorsement of Corbin, McCarty, and Holloway constituted a popular mandate in favor of customs fraud and abetting pirates, but it does indicate that, at the very least, the voting public was not so upset about participation in such questionable activities that it saw fit to turn legislators out of office for pursuing them.¹¹²

¹¹⁰ Dodson, Alexander Spotswood, 179; Billings, Selby, and Tate, Colonial Virginia, 188.

¹¹¹ Dodson, Alexander Spotswood, 262-63; Billings, Selby, and Tate, Colonial Virginia, 193.

¹¹² Though the members of the anti-Spotswood faction may have been united in their resentment of the governor and, in the cases of Holloway, Corbin, and McCarty, in their involvement in maritime activities of questionable legality, they do not appear to have been bound by any common ideology

Political divisions that may have been based in part on conflict over the liberty to conduct illegal maritime enterprises are much less in evidence after Spotswood's departure from the governorship. The executive styles of Spotswood's immediate successors, Hugh Drysdale and William Gooch, favored tact and diplomacy over hostile confrontation. During Gooch's long and generally harmonious term, other circumstances -- primarily the success of the tobacco inspection system and Walpole's policy of benign indifference toward the colonies -- combined with the governor's admirable political skill to prevent, for the most part, the eruption of serious disputes either among domestic factions or between the colony and the mother country. But the more assertive regulation of colonial affairs under subsequent British administrations radically altered that state of affairs.

For decades since the mid-1720s colonial officials had virtually abandoned, in the face of local opposition and the disinterest of British authorities, any serious attempt to enforce imperial trade policy rigorously. Consequently, Chesapeake residents continued to conduct their maritime commercial affairs as they customarily had and colonial

or sense of personal allegiance. In the 1730 and 1736 debates concerning Governor Gooch's tobacco inspection system, the fact that Holloway, who stood to gain by having two inspection warehouses built on his property, supported the system while Corbin led the opposition, suggests that self interest was what ultimately motivated these men (Billings, Selby, and Tate, Colonial Virginia, 238, 245).

customs agents adapted themselves to the practical reality of the situation. As James Henretta has observed of the effort to enforce British customs regulations in the colonies, "moderate men quickly became aware of the futility of the struggle; only zealots . . . persisted in the fight for the abstract principles conceived in London."¹¹³ By the time a reinvigorated Board of Trade attempted to tighten control of the overseas customs service in 1748, royal officers in the greater Chesapeake were unprepared to execute the new policy. As a result, John Williams's investigation of customs affairs in the bay region over twenty years later revealed a situation essentially unchanged since Edward Randolph's era: illicit trade and customs fraud on a significant scale, the same problems of administration and enforcement, the same contraband partners, and even the same smuggling techniques.

With the accession of George III in 1760 and the emergence of George Grenville as chief minister by the end of the Seven Years' War, the *modus vivendi* that had been worked out between colonists and customs agents in the greater Chesapeake was no longer acceptable to the leaders of the home government. Grenville insisted on stricter customs regulation partly to raise additional revenues to help pay for both the customs service itself and for

¹¹³ Henretta, "Salutary Neglect", 324.

colonial defense, burdens which the colonists themselves were loath to assume.

What is particularly noteworthy in the context of this study is the manner in which bay area residents responded to the more rigorous management of their commercial affairs. In 1651, when authorities of the home government sought to punish Virginians for their support of the losing side in the Civil War, they imposed restrictions in the realm of maritime trade. Over a century later, when Chesapeake colonists expressed their discontent with the policies of the mother country, they chose tactics adapted to the same arena. By thwarting and even attacking customs collectors, organizing resistance at the hub of the seamen's network, assaulting those suspected of informing on smugglers, opposing the press by force and guile, and publishing notice of guardship movements as a warning to illicit traders, the colonists made the protection of customary prerogatives (or, from the crown's point of view, flagrant illegal practices) in the maritime sphere a central focus of their resistance.

The success of the Revolution ensured that Anglo-Americans no longer had to pay hated royal customs duties or abide by the commercial restrictions that the Navigation Acts had imposed. As a result, the incentive to conduct illicit trade in the aftermath of the struggle for independence was reduced significantly. Now, perhaps,

lawlessness would cease to exist as a standard feature of the maritime environment of the greater Chesapeake. But the express concern of newly independent Virginians over the potential for continued outbreaks of illegal, destructive behavior suggests that while much of the motivation to commit lawless acts had been eliminated, the impulses of some greater Chesapeake residents to do so had not.

The concern related not to customs affairs, but to a sphere of coastal activity which remained essentially unaffected by the profound political realignments that the Revolution produced: the old practice of wrecking ships. Recognizing that "many vessels have been and may hereafter be stranded on the sea coast, bay or river shores . . . and the goods or other property belonging to such vessels may be embezzled or stolen," legislators of the young commonwealth adopted a new "Act Concerning Wrecks" in 1782 which articulated the traditional concerns of the governing authority. The statute explicitly prohibited anyone from entering (much less removing effects from) wrecked ships without the commanding officer's permission.¹¹⁴ Stiff penalties were prescribed for individuals found to have tampered with a stranded ship (including "death without benefit of clergy" for those who made, or even assisted in making, a hole in the side of a vessel in distress) and for any of the authorized "commissioners" of wrecks who "by

¹¹⁴ Hening, Statutes, XI, 51-53.

fraud or wilful neglect" was found guilty of "abusing the trust reposed in him."¹¹⁵ The question of whether or not lawlessness actually abated in the wake of the Revolution lies beyond the scope of this study, but the Act of 1782 does reveal Virginia lawmakers' familiarity with past criminal behavior and their continued anxiety regarding its future repetition on the maritime frontier of the greater Chesapeake.

¹¹⁵ Ibid., 52-53.

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VITA

Samuel G. Margolin

Born in Mount Vernon, New York, April 22, 1951.
Graduated from the Horace Mann School in the Bronx, New
York, June 1968. B.A. University of Wisconsin, Madison,
1972. M.A. in anthropology Texas A & M University, College
Station, 1978.

In August 1982, the author entered the Ph.D. program in
the Department of History where he served as a teaching
intern.