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Maybe the Real Prize Was the Connections They Built Along the Way: A Legal Analysis of the
Role of Privateering in the Creation of the Trans-Imperial Greater Caribbean

By
Daniel Louis Hall

A thesis submitted to the faculty of The University of Mississippi in partial fulfillment of the
requirements of the Sally McDonnell Barksdale Honors College.

Oxford, MS
May 2022

Approved By

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Reader: Dr. Noell Wilson

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Daniel Louis Hall

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DEDICATION

This thesis is dedicated to my family and Olivia, who all make me want to try my hardest.

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I would like to thank Dr. Jesse Cromwell; without whose guidance this thesis would be incoherent.

I would also like to thank Dr. Stearns and Dr. Wilson for making my defense a truly memorable, positive experience and for agreeing to take part in and support my thesis.

ABSTRACT

DANIEL LOUIS HALL: *Maybe the Real Prize Was the Connections They Built Along the Way: A Legal Analysis of the Role of Privateering in the Creation of the Trans-Imperial Greater Caribbean*

Under the direction of Dr. Jesse Cromwell

While study of the eighteenth-century Caribbean has traditionally focused on the stark separation between the European empires of the region, this thesis seeks to reveal privateering's role as an important force in creating what has come to be referred to as the trans-imperial or trans-national Caribbean. This will be based in an analysis of the legal structure of British privateering as a means of both drawing attention to the practice's intrinsically legalistic nature as well as highlighting the fact that this regional creation was a result of colonists working within imperial guidelines as much as it was an act of implicit rebellion. This is to say that the connective nature of prize taking arose both from aspects of the legal structure that defined it as well as the unlawful (but widely accepted) activities that it facilitated, most notably contraband trade. In addition to better connecting denizens of the region separated by imperial boundaries, privateering also played a major role in separating the region from direct imperial rule. This can be seen most clearly in the heavy use of letters of marque by newly independent states in the region during the early-to-mid nineteenth-century. This thesis seeks to synthesize research done on privateering's impact as a military, political, and commercial tool to present its importance in defining the social fabric of the region during the 18th and early 19th centuries.

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Introduction

Historical study of the Early Modern Caribbean has traditionally tended to separate and compartmentalize discussion of the respective empires that dominated the region, leaving an impression of starkly defined boundaries and minimal interaction outside of frequent wars and the much-discussed contraband trade. As Jorge Cañizares-Esguerra and Benjamin Breen contend, scholarship on these empires has tended to “follow separate trajectories, with the unhappy result that twenty-first century scholars sometimes fail to notice influences that would have been obvious to early modern individuals.”¹ More recent scholarship has shifted instead to viewing the region as a heavily interconnected space, one defined more by local interactions between subjects of neighboring empires than by decisions of the imperial metropole.

This thesis seeks to further this idea by examining the institution of privateering and the legal structure that it existed within as a factor of inter-imperial connection throughout the eighteenth-century and later as a force driving the region’s movement away from direct European control and into an age of independent republics. Privateering was the practice of states issuing licenses (called letters of marque) to sailors allowing them to engage in legal raids against hostile countries during war. This was a highly popular custom among European empires because it allowed them to raise large naval forces at no cost upfront since all these countries had to do was offer the letters of marque and wait for them to be purchased by eager investors.

¹ Benjamin Breen and Jorge Cañizares-Esguerra, "Hybrid Atlantics: Future Directions for the History of the Atlantic World," *History Compass* 11, no. 8 (2013), 597.

Privateering furthered region-making by providing a unique avenue for legal, trans-imperial economic interactions in a period and region classically defined by mercantilism and economic exclusion. Since this uncharacteristic legality is so core to privateering's importance, this thesis will be grounded in an analysis of British naval prize (privateering) law. Viewing the institution of privateering from a legalistic point of view also helps to reveal how this interconnected region was built as much through adherence to imperial decree as it was through implicit colonial defiance. Additionally, while privateering has centuries old roots, this analysis is limited mostly to the eighteenth-century because of a series of statutory innovations that made the prize-taking practices of this period distinct from those previous.

To discuss region building and ideas of space, I use many of the concepts utilized in Ernesto Bassi's *An Aqueous Territory: Sailor Geographies and New Granada's Transimperial Greater Caribbean World*. In this work, Bassi focuses on the construction of a region that he refers to as the trans-imperial Greater Caribbean through highly mobile sailors "gathering and spreading information" from across political borders which allowed "less mobile coastal and island denizens" to form a conception of space that included technically foreign territory, rather than exclusively their own empire's holdings.² While Bassi focuses much of this spatial construction on the flow of information that resulted from the expansion of free trade policies in the late 1700s, I argue that many of these same transactions were made possible through privateering both earlier in the century and alongside this free trade.

Several important scholarly works on privateering have focused on the economic impacts of the practice. The two which I reference most heavily are Carl Swanson's *Predators and*

² Ernesto Bassi, *An Aqueous Territory*, (Durham: Duke University Press, 2016), 21.

Prizes and Adrian J. Pearce's *British Trade with Spanish America 1763-1808. Predators and Prizes* is a very straightforward discussion of privateering, its legal structure, and the effects it had on the Caribbean during the War of Jenkins' Ear (1739-1748). I use much of the data Swanson provides about the rates of adjudication in British prize courts to establish how these courts were able to find roles as important local economic and political power-brokers as well as their general popularity during this period. Pearce's work focuses on British trade with Spanish colonies in the Americas, both legal and illegal. I rely on his estimates of trade rates throughout the 17th and 18th centuries to make arguments about the competition between the economic interest of privateering versus that of the re-exportation trade through Europe. Both of these sources more directly focus on the economic impacts of their respective material while I attempt to use such data to argue for privateering as a mechanism of greater social change in the region.

There are a number of other works that touch on the role of privateering's social impact in the region. Most notably, I reference Jeppe Mulich's *In a Sea of Empires*, Vanessa Mongey's *Rogue Revolutionaries*, and Edgardo Pérez Morales's *No Limits to Their Sway*. Mulich's work focuses on the role of sailors in colonial interconnection through their mobility and ability to spread information. Mongey and Morales focus more on the similar role of these sailors in the revolutionary movements of late eighteenth and early nineteenth centuries. I reference their treatment of privateers in this context to make a greater argument about their role as region makers during this period.

Chapter One will focus on the historical origins of privateering in the Caribbean including how the word "privateer" came into existence and how it came to be defined as distinct from piracy. Chapter Two will analyze privateering as it existed and evolved on paper in the eighteenth-century through three pieces of British imperial legislation and their historical

context. Chapter Three will discuss how the laws covered in Chapter Two played out in practice by examining the importance and popularity of privateering and vice-admiralty courts in the Caribbean during the eighteenth-century. Finally, Chapter Four will explain privateering's role in the creation of the trans-imperial Caribbean. This will be studied through the movement of people and information privateering facilitated as well as through its role in the region's gradual separation from European imperial powers.

PART I: DEFINING PRIVATEERING

Chapter 1: The Origins of Privateering

When my friends have asked me what I'm writing this paper about I usually answer "Privateering in the Caribbean during the 1700s." The most common response to this has been "So, like pirates?" to which I give a resigned "Yes, like pirates." While this confusion is certainly caused by the portrayal of this period in modern pop culture, the conflation of pirates and privateers is a phenomenon with deep historical roots. To disentangle these distinctions, it is helpful to first analyze privateering's inception.

While the practice of state-licensed sea raiding has much older origins, the word "privateer" did not actually come into existence until the mid-to-late 1600s.³ Privateering as it existed in the eighteenth-century was the evolution of the practice of reprisal which dated back to the thirteenth-century.⁴ Under this system, a captain who had been subject to theft by a foreign entity could receive a license to raid against ships sailing under that same foreign power to recover the value of goods lost. These licenses, called letters of reprisals, were unlike the letters of marque used by later privateers in that they allowed raiding during times of peace and were much stricter in determining what and how much could be looted. Crews in possession of a

³ Carla Pestana, "Early English Jamaica without Pirates," *The William and Mary Quarterly* 71, no. 3 (2014), 332.

⁴ Groves Clark, "The English Practice with Regard to Reprisals by Private Persons," *The American Journal of International Law* 27, no. 4 (1933), 694.

letter of reprisal could only recover the value of what they had initially lost, while later privateers were engaged in open raiding focused on maximizing profit. Reprisal existed much more as a final option when other more peaceful methods of redress could not be found than as an opportunity to engage in aggressions against a rival county's vessels.⁵

Naval raids by private parties took a marked turn in the sixteenth-century under Tudor leadership. A 1544 decree by Henry VIII allowed effectively unregulated raids against England's enemies, namely Scotland and France at the time.⁶ These crews were not even required to possess a license, instead all ships engaged in this form of combat would carry a copy of the aforementioned proclamation that legalized their attacks. This iteration of private naval warfare was much closer to eighteenth-century privateering than reprisal in two major ways: 1) it was meant to be used only during times of war 2) it served to supplement state naval power while bolstering the war treasury. The 1544 decree itself did not directly mention any enhanced means of regulation for these private men-of-war, thus England continued to rely on previously established piracy law and the prize infrastructure established for reprisal to govern these sailors and adjudicate their prizes.⁷

Elizabeth I would continue to expand reprisal in much of the same way as her father. Under her reign, crews were again required to possess a letter of reprisal, as opposed to the decree legalizing their actions. However, at this point the sincerity of such licenses was more performative than anything since no proof of previous depredations was required.⁸ Instead, these

⁵ Clark, 722-723.

⁶ Sarah Craze, "Prosecuting Privateers for Piracy," *International Journal of Maritime History* 28, no. 4 (2016), 656-657.

⁷ *Ibid.*, 657.

⁸ Kenneth R Andrews, *Elizabethan Privateering: English Privateering during the Spanish War, 1585-1603*, Cambridge: University Press, 1964, 4.

letters of reprisals took the place of what would later be known as letters of marque. For this reason, many scholars have traditionally referred to this as the beginning of privateering.⁹ This distinction is somewhat flawed because the term “privateer” did not yet exist and would not be used to refer to this practice until the turn of the eighteenth-century.¹⁰ Additionally, this system lacked the extensive regulation and legal framework that would come to define privateering in earnest.

It would not be until the English colonization of Jamaica after Cromwell’s Western Design that “privateer” would enter the English lexicon. After initial settlement in 1655, English colonists engaged in a great deal of naval raiding to establish their place in the Caribbean. A considerable portion of this effort was headed by vessels of the Royal Navy that remained to ensure the newly gained colony’s security. In addition to these public vessels was a contingent of “between 1,000 and 3,000” sailors unaffiliated with the navy who came to be known as privateers.¹¹ This term referred to these sailors as a class of people, rather than by their actions per se (although many of them engaged in licensed raids against the Spanish). This earliest known use of this term comes from 1661 when Jamaican merchant William Beeston claimed that then governor, Edward D’Oyley, had “absolute power” over this group of private sailors.¹²

The privateers of Jamaica engaged in a considerable amount of licensed raiding during the early days of English settlement in Jamaica. In 1662, Lord Thomas Windsor became governor of Jamaica and declared war against the Spanish.¹³ During this conflict, Windsor

⁹ John Coakley, “The Piracies of Some Little Privateers’: Language, Law and Maritime Violence in the Seventeenth-Century Caribbean: Britain and the World: Vol 13, No 1,” *Britain and the World*, February 2020, <https://www.eupublishing.com/doi/full/10.3366/brw.2020.0335#>.

¹⁰ Coakley, “The Piracies of Some Little Privateers.”

¹¹ *Ibid.*

¹² William Beeston, “A Journal Kept by Col. William Beeston,” in *Interesting tracts, relating to the Island of Jamaica...*, (St Jago de la Vega: Lewis, Lunan, and Jones, 1800), 274.

¹³ Beeston, 276.

liberally issued raiding commissions to privateers to supplement the naval forces present at Jamaica. Use of these commissions to employ the privateers would continue throughout the decade until the 1670 Treaty of Madrid, which declared Anglo-Spanish peace.¹⁴

After this treaty's adoption, privateers were seen in a much more negative light. These private sailors continued their raiding, but without the commissions they enjoyed during inter-imperial conflict, making their actions piracy. Piracy was generally defined as hostile acts at sea that were not sanctioned and licensed by the authority of a recognized, sovereign government (such as reprisal raids or formal military actions). It is during this period that conceptions of piracy and privateering began to be conflated since privateers (the group of private sailors in Jamaica) were often pirates. The actions of these seamen piqued the ire of Jamaican governors because of their detrimental effect on colonial development and diplomatic relationships with nearby Spanish colonies. This can be seen in Jamaican governor Thomas Lynch's plea for naval support against "the piracies of little privateers" in 1671, as well as later governor John Vaughan's observation that "The only enemy to planting is privateering," in 1676.¹⁵ These quotes reveal a general sentiment that the aggressions of privateers put the stability of English colonies in the Caribbean at risk.¹⁶ They also display the close connection between privateering and piracy throughout this decade, with the second example even using "privateering"

¹⁴ Coakley, "The Piracies of Some Little Privateers."

¹⁵ Governor Vaughan to Lords of Trade and Plantations, April 4, "America and West Indies: April 1676," in *Calendar of State Papers Colonial, America and West Indies: Volume 9, 1675-1676 and Addenda 1574-1674*, ed. W Noel Sainsbury (London: Her Majesty's Stationery Office, 1893), 365-388. *British History Online*, accessed March 28, 2022, <http://www.british-history.ac.uk/cal-state-papers/colonial/america-west-indies/vol9/pp365-388>; Thomas Lynch to Lord Arlington, Dec 25, "America and West Indies: December 1671, 16-31," in *Calendar of State Papers Colonial, America and West Indies: Volume 7, 1669-1674*, ed. W Noel Sainsbury (London: Her Majesty's Stationery Office, 1889), 296-311. *British History Online*, accessed March 28, 2022, <http://www.british-history.ac.uk/cal-state-papers/colonial/america-west-indies/vol7/pp296-311>

¹⁶ April Lee Hatfield, "Reluctant Petitioners: English Officials and the Spanish Caribbean," in *Entangled Empires*, ed. Jorge Cañizares-Esguerra (Philadelphia: University of Pennsylvania Press), 205.

effectively interchangeably with piracy. Tensions created by these sailors eventually necessitated a legal response.

This came in the form of a 1681 piece of Jamaican legislation called “An Act For the Restraining and Punishing Privateers and Pirates.”¹⁷ While privateers and pirates are treated as distinct entities (as seen by their specific enumeration in the act’s title), much of this act gave them similar treatment. This is important because it altered the meaning of “privateer” from referring to a specific social group in Jamaica to any person engaged in behaviors similar to this group of sailors. Laws echoing this act’s purpose began being adopted throughout the Caribbean, cementing the legal meaning of “privateer” and expanding its use beyond Jamaica.¹⁸

The conception of privateering as closely akin to piracy as was established by these Caribbean laws would soon be altered. This was a result of English legislation passed during the Nine Years’ War (1688-1697) as well as James II’s aggression from Ireland after being deposed in 1689. To help facilitate their war with France, William and Mary began to issue letters of marque and reprisal to any private parties wishing to fight for prizes. Interestingly, officials referred to such vessels and sailors as privateers, adopting a meaning more similar to that of 1660s Jamaica than of the recently passed Caribbean anti-privateering laws.¹⁹ These crews’ behavior was akin to past Jamaican privateers, although they were now being very clearly legally defined as “a sovereign’s lawfully authorized private sea raiders acting as a supplement to a formal navy against that sovereign’s enemies in war.”²⁰ This definition was further clarified and

¹⁷ *The Laws of Jamaica Passed by the Assembly, and Confirmed by His Majesty in Council, Feb. 23. 1683 ...*, (London: H. Hills, 1683), 47-55.

¹⁸ Coakley, “The Piracies of Some Little Privateers.”

¹⁹ *Ibid.*

²⁰ *Ibid.*

distinguished from piracy in a 1693 Admiralty Court debate over the use of James II's use of similar forces from Ireland.

The issue in this case was whether or not James II still possessed the sovereign status necessary to make the letters of marque distributed in his name legal. After his removal from the throne of England, James II fled to Ireland from where he granted sailors letters of marque to engage in raids against the English. A number of such sailors were captured and the High Admiralty court of England decided that they should be tried as pirates rather than privateers. The reasoning behind this decision was that since "king James lost his sovereignty" when he was deposed, so too did he lose "the power of granting such [privateering] commissions."²¹ It was thus determined that any letters of marque issued by James II had no authority since he was not a recognized sovereign in the eyes of England. This further defined privateering as the acts of those with a recognized license versus that of pirates who were "common enemies to all mankind, having no legal authority for what they do."²² In addition to clarifying the definition of privateering that would persist throughout the eighteenth and nineteenth-century, this court case showcased a very interesting aspect of privateering law: who had the sovereignty required to issue letters of marque? This issue would come to the fore during the early 1800s when new, untested republics in and around the Caribbean began utilizing letters of marque to test the legitimacy of their statehood.

While privateering's modern meaning was clarified by the laws and legal tests of the late seventeenth-century, it would not be until 1708 that the practice would start to take the form that would define it throughout the eighteenth and nineteenth centuries. Privateering during these

²¹ William Cobbett, *Cobbett's Complete Collection of State trials and Proceedings for High Treason and other Crimes and Misdemeanors*, Vol. 12, A.D. 1687-1696 (London: T.C. Hansard, 1812), 1270.

²² Cobbett, *Cobbett's Complete Collection of State Trials*, 1270.

periods was characterized by an extensive legal and judicial restructuring that shifted power over the practice towards the New World. The consequence of this greater autonomy would be that privateers and the prize courts that governed them would become more and more capable of bending and abusing the legal structure they existed within. Additionally, they could use the influx of commercial activity that they caused during times of war to better connect colonies that traditionally struggle to find legal channels for economic interaction. However, to study these ramifications, it is essential to first understand the laws that defined these sailors' profession.

Chapter 2: Eighteenth-Century Legal Framework

A legal framework is essential for understanding privateering's role in defining the trans-imperial Caribbean because privateering was defined by its legality. As discussed in the previous chapter, the only discernible difference between the actions of pirates and privateers was the possession of a letter of marque. Privateers depended on the stipulations of their legal system to separate themselves from their piratical counterparts, who global legal systems labeled *hostis humani generis* (enemies of all mankind). While privateering in the eighteenth-century Caribbean was certainly fueled by personal desires for wealth and trade, it is impossible to separate it from its role as a tool of imperial design. After all, privateering existed as a necessary means by which European states could buttress their military and commercial needs at no cost. As such, it is important to first understand how such British imperial planners intended for this system to be enacted before studying how it was bent and broken to better serve the desires of Caribbean colonists.

This chapter offers a general overview of eighteenth-century British privateering law through legal analysis of three key acts. These laws established the general structure of privateering and prize litigation and reveal how abuses of the system were addressed, albeit too late.

The first statute major piece eighteenth-century privateering legislation is “An Act for the Encouragement of the Trade to America” of 1708, known at the time as the American Act. Parliament passed this act during the War of Spanish Succession (referred to as Queen Anne’s

War in the Americas) to mobilize British colonists to “annoy and diminish the wealth and power of her majesties enemies in those parts” through privateering.²³ This act set the basic parameters for prize litigation, protected privateers from impressment, and endowed vice-admiralty courts with the power to oversee prize cases.

The second part of the legal framework covered in this chapter is a set of instructions sent in 1739 and a subsequent act of parliament directing colonial authorities to begin issuing letters of marque at the beginning of the War of Jenkins’ Ear. This legislation led to a massive boom in privateering when compared to its use in previous conflicts resulting, in large part, from years of losses and perceived harassment at the hands of the Spanish *guarda costas* (coast guard) creating a massive demand for privateering. This list of instructions built upon the groundwork laid by the 1708 American Act while making a few crucial additions such as the requirement to bring the highest-ranking members of a captured ship to port along with it and the legal requirement to both record and share any intelligence gathered in the course of executing a letter of marque. The 1740 Naval Prize Act formalized what was stated in the earlier set of instructions and included provisions which exempted prizes from the usual commission demanded by the High Admiralty court and the Crown (although said goods were still subject to general duties and customs), implemented a bounty system for capturing enemy war ships, and gave guidelines for salvage proceedings.

Concluding this chapter’s overview is the Prize Courts Act of 1801. This act aimed to put an end to the abuses of the system by vice-admiralty judges in the Caribbean that played a major role in the creation of the trans-imperial Caribbean. Most of this act targeted judges who

²³ *An Act for the encouragement of the trade to America*, Printed by Charles Bill, *Eighteenth Century Collections Online*, 463.

had been using their position to elevate themselves as local power brokers through privateering's popularity and profitability. Among other things, this statute enacted provisions that gave the crown more direct power in altering the fees that courts assessed, placed a firm limit on judges' emoluments, and generally attempted to make these courts more favorable to appealing parties.

These three acts (and set of instructions) more strictly codified a practice that had been haphazard and weakly defined in previous centuries and established the basic structure and development of privateering and prize law as throughout the 1700s. This process of organization gave privateering a framework firm enough for it to develop into an essential economic institution during wartime. It also shifted so much judicial power to these New World courts that British imperial planners struggled to reign in abuses running rampant by the turn of the nineteenth-century.

The American Act

The American Act, officially "An Act for the Encouragement of the Trade to America," was the foundation for many of the abuses that privateers and vice-admiralty courts engaged in throughout the eighteenth-century such as overcharging court fees and not allowing time for third-parties to make claims. Core to these behaviors' emergence was the shift of power over such cases from the High Admiralty court in England to colonial vice-admiralty courts. This change was subtly announced when the act stated that "all and every ship, Vessel, goods and merchandize" captured in the Americas must first be "adjudged lawful prize in any of her

majesties courts of admiralty.”²⁴ While seemingly minor, the inclusion of the word “any” in this clause had massive implications.

Prior to this act’s passage, all prize cases had been tried at the High Court of Admiralty in England. The only agents of this court in the Americas were those who had been appointed by this court to oversee the examination of witnesses and sale of captured goods (the proceeds of which would be held by these agents until adjudication in England was complete). This shift of judicial power from Europe to the American colonies greatly concerned some, such as High Admiralty judge Sir Henry Penrice. Penrice very clearly saw the potential issues that were starting to form as a result of this act and made his worries known to the secretary of the admiralty, “it is much to be feared [Vice Admiralty Judges] are not well versed in the Laws of Nations, and Treaties between Us and other States; and it is well known that they do not proceed in that Regular Manner as is practiced in His Majesties High Court of Admiralty...”²⁵ This concern over colonial judges’ legal acumen combined with his apprehension towards the logistical realities of trans-Atlantic communication made for a somewhat uncanny prediction of the judicial abuses that were to come.

Beyond the simple allowance for these cases to be processed locally, many of the provisions of this act primed the process of prize adjudication for abuses. For example, much of this statute was aimed at speeding up the (usually lengthy) process of ship condemnation. To accomplish this goal, time limits were placed on specific aspects of the proceedings, such as a five-day limit to finish “preparatory examination of persons commonly examined,” three days to issue a warning of seizure to any claimants, twenty days for claimants to respond to said

²⁴ *An Act for the encouragement of trade to America*, 464.

²⁵ “Sir Henry Penrice to the Secretary of the Admiralty. November 29, 1718,” in *Privateering and Piracy in the Colonial Period*, ed. John Franklin Jameson (New York: The Macmillan Company, 1923), 313.

warning, and five days for said claimants to pay securities.²⁶ Judges did not strictly adhere to these limits and would sometimes refuse to allow the allotted time to pass before proceeding to condemn a vessel as a prize.²⁷ This meant that even if a vessel's owner was properly contacted, they were racing against the clock to prevent their ship's condemnation before needing to issue a formal appeal.

In addition to these temporal limitations was the massive monetary investment necessary from anyone who sought to argue against a privateer's seizure or a court's decision. These included fees such as double costs paid to the captor as securities, further costs for the legally required appraisal of the ship and its goods, as well as the additional securities required to initiate the appeals process in case of an unfavorable decision.²⁸ In addition there was a fee that was meant to be paid directly to the court which was meant to be capped at £10-15 depending on the size of the vessel in question.²⁹ Judges aggressively ignored this limitation, often charging up to (or beyond) twice that rate. The costs listed above only cover those required to adhere to the provisions of the American Act. When considered along with those necessary to travel to these courts for adjudication or to pay an agent to do so, it becomes clear how daunting a task such appeals were.

This act also had clauses that directly affected the movement and status of British privateers and merchants, channeling them into local economies. The first provision was the requirement for those seeking prize adjudication to stay at port without breaking bulk (meaning nothing could be removed from the ship) for the entirety of the proceedings, effectively requiring

²⁶ *An Act for the encouragement of the trade to America*, 465.

²⁷ Carl Swanson, *Predators and Prizes* (Columbia, South Carolina: University of South Carolina Press, 1991), 42.

²⁸ *An Act for the encouragement of trade to America*, 466.

²⁹ *Ibid.*, 467.

the crew to stay at the port of adjudication until their prize had been processed. This meant that these newly paid privateers had no other choice than to spend a portion of their money at said port to pay for necessities such as food and lodging. This stipulation along with the ability of privateers to freely choose their port of adjudication gave prize courts who could successfully draw the attention and business of such sailors a massively lucrative role in their local economy. Additionally, this act made such sailors immune to the ever-present threat of impressment (being forced into naval service). Although this protection did not persist after the War of Spanish Succession ended, it is part of a general trend within privateering laws aimed at stimulating service by providing special benefits (a practice even more evident in the next set of acts).

The American Act laid the groundwork for privateering and prize law throughout this century. In fact, many later statutes would reuse its language when explaining basic procedure and expectations for prize proceeding, among other things. What is most note-worthy about this act is that it shifted prize proceeding from Britain to the New World and established the basic procedural requirements for privateers seeking to claim their prizes.

Instructions of George II & 1740 Naval Prize Act

After the War of Spanish Succession ended in 1714, the Caribbean experienced a period of relative peace lasting for the next two decades (at least from an Anglo-Spanish perspective). This was only interrupted by aggressions stemming from the War of the Quadruple Alliance (1718-1720) and the Anglo-Spanish War (1727-1729), but these conflicts were minor in comparison to the earlier War of Spanish Succession and the trade wars that would come in the following years.

The principal reason for this peace was the trade allowances that the Spanish ceded to Great Britain in the Treaty of Utrecht, which ended the War of Spanish Succession. The most notable of these changes, from a Caribbean perspective, was the granting of the *Asiento de Negros* as well as access to the Spanish trade fair at Porto Bello and Veracruz. The *Asiento de Negros* was the exclusive and lucrative contract to provide slaves to the Spanish colonies. Great Britain's possession of the *asiento* allowed merchants across the Caribbean to form previously inaccessible trade relations predicated on commercial interactions allowed by this contract. However, this proximity created as much conflict as it did profit.

Depredations made by both British and Spanish parties including preventing access of the permission ship to trade fairs, harassment of British merchants by Spanish *guarda costas*, numerous abuses of the *asiento* by the British South Sea Company, and general anxiety over the state of commerce in the Caribbean stemming in large part from the mercantilist perception of wealth as a finite resource would eventually lead to the War of Jenkins' Ear. This war got its name from a sensationalized incident in 1731 (eight years before the war actually began) wherein a British merchant, named Robert Jenkins, was captured by *guarda costas* who cut his ear off over suspicion of smuggling. The Spanish referred to this war as *la Guerra del Asiento* (the War of the Asiento), which much more clearly reveals these empires' reason for conflict.

While the sources of tension leading up to this war were multiple, the apparent *casus belli* for British hostilities was the failure of the Spanish to pay "the sum of 95000/ sterling" by the 25th of May, 1739 as agreed upon by the Treaty of Pardo (negotiations to settle hostilities at the

border of Georgia and Florida).³⁰ As an alleged result of this non-payment, the British empowered colonial governors to begin distributing letters of marque.

This change was met with widespread approval. Many colonies were able to outfit and send privateers within days of receiving this notice, such as was the case in Rhode Island: “within the few days [the messenger] stayed, there were three sloops equipped and ready to sail as privateers... and three or four more would soon be ready to follow.”³¹ However, while there was a great deal of eagerness to begin reprisals against the Spanish, there was an equal amount of confusion about how to do so legally. Many colonies had not equipped privateering missions in over a decade. As a result, colonial governors were unsure as to how, exactly, to issue acceptable letters of marque. James Doting, president of the council of Barbados, made this confusion known to Britain when he revealed that he was structuring his commissions off of those “fit to be granted in 1719 soon after the war with Spain first happened.”³²

To resolve these issues, George II issued a set of instructions on privateering on November 30, 1739. This set of instructions informed proper procedure when privateering experienced its first real boom in the region by maintaining the general outline of the American Act while making some transformative additions.

³⁰ Duke of Newcastle to Edward Trelawny, June 15, "America and West Indies: June 1739," in *Calendar of State Papers Colonial, America and West Indies: Volume 45, 1739*, ed. K G Davies (London: Her Majesty's Stationery Office, 1994), 112-130. *British History Online*, accessed November 20, 2021, <http://www.british-history.ac.uk/cal-state-papers/colonial/america-west-indies/vol45/pp112-130>

³¹ William Stephens to Harman Verelst, September 10, "America and West Indies: September 1739," in *Calendar of State Papers Colonial, America and West Indies: Volume 45, 1739*, ed. K G Davies (London: Her Majesty's Stationery Office, 1994), 174-191. *British History Online*, accessed November 20, 2021, <http://www.british-history.ac.uk/cal-state-papers/colonial/america-west-indies/vol45/pp174-191>

³² President James Doting to Duke of Newcastle, August 14, "America and West Indies: August 1739," in *Calendar of State Papers Colonial, America and West Indies: Volume 45, 1739*, ed. K G Davies (London: Her Majesty's Stationery Office, 1994), 153-174. *British History Online*, accessed November 20, 2021, <http://www.british-history.ac.uk/cal-state-papers/colonial/america-west-indies/vol45/pp153-174>

A major practice that was retained from the time of the American Act was the privateers' ability to choose whichever court was "most convenient for them" when seeking prize adjudication.³³ As mentioned previously, this provision was crucially important in allowing prize courts to become local political and economic power brokers since they had to compete for the interest of privateers. This freedom of choice in combination with the requirement for privateers to stay at their port of adjudication, without breaking bulk, for the entirety of their prize case meant that having a desirable admiralty court could prove a major source of income for a colony.

One of the new requirements implemented by this decree was that all "Papers and Writings Delivered up, or otherwise found on board" a captured ship had to be turned over to the court for investigation during litigation.³⁴ This created a more objective standard for determining the national character of a ship as well as meaning that privateering ventures posed a major threat towards correspondence, especially across the Atlantic. These implications will be studied further in Chapter Four.

Another principal inclusion to this document was the requirement that every privateer was "Oblig'd to bring or send... Three or Four of the Principal of the Company (whereof the Master and the Pilot to be always two) of every Ship so brought into Port."³⁵ This meant that with every capture, privateers were required to bring the most high-ranking members on-board these vessels to testify in court and, more importantly, stay at port until the prize was condemned. This allowed Spanish and British merchants to be in close, prolonged contact

³³ "Instructions of George II to Captains of Privateers," In *Privateering and Piracy in the Colonial Period: Illustrative Documents*, ed. John Franklin Jameson, (New York: The Macmillan Company, 1923), 348.

³⁴ "Instructions of George II," 349.

³⁵ *Ibid.*, 348.

(something that was generally hard to legally achieve in the context of military conflict).

Furthermore, such interactions were essential for the formation and maintenance of the illicit trade channels that would define the economic landscape of the Caribbean for much of the century.

Parliament closely followed this set of instructions with a formal act in 1740 which aimed to clarify Britain's official policy on privateering as well as encourage increased naval service, both private and public. A considerable portion of this act reused, verbatim, provisions from the American Act. Specifically, it copied provision III and IV which listed various specifics of prize adjudication such as time limitations and procedural expectations, provision V restating the requirement for captors to stay at port for the entirety of their prize proceeding, provision VII setting a limit of fees that could be charged by judges, and provision VIII explaining the appeals process.

While much of this act served to restate the general structure of the American Act, a few key additions were made. First and foremost was the allowance for "Officers, seamen, marines, and soldiers, to have the sole property of all prizes."³⁶ This meant that no longer would a percentage of each prize be kept by the Crown or High Admiralty court, greatly increasing privateering's profitability. This was part of a number of legal changes that sought to increase the rate of privateering during the beginning of the War of Jenkins' Ear. Provision II gave similar encouragement by stating that "any *British* owner or owners of any ship" was able to purchase a letter of marque.³⁷ This clause was important because it made so that the only major barrier of entry for British colonists was their ability to afford investing in a letter of marque.

³⁶ 13 Geo. II, 1740, c. 4, in Pickering, ed., *The Statutes at Large, XVII* (Cambridge: Cambridge University Press, 1762), 360.

³⁷ *Ibid.*

Furthermore, provision XV created bounties for taking or destroying Spanish “ships of war, or privateers.”³⁸ Provision XV also included a section which required anyone wishing to claim such a bounty to bring with them “three or more of the chief officers, or men, which were belonging to the said ship or ships of war.”³⁹ This presents a similar situation to that discussed earlier wherein a major portion of a privateer’s profit is tied to their trafficking of foreign, enemy sailors into a British port.

The final inclusion in the act worth mentioning is provision XVIII, which specifically addressed salvage laws. A salvage claim occurred when a privateer recaptured a ship that formerly belonged to a British owner. If the ship’s former owner was able to prove their property claim, then (according to this act) it would be returned to them for a cost determined by the amount of time that ship spent in enemy hands. This matters because previous to this act, a privateer could be awarded the entirety of such a vessel as prize.⁴⁰ This provision was meant to better protect the property of British merchants and thus increase the number of people engaged in commercial ventures across the New World colonies.

1801 Prize Courts Act

The final act of this general overview of eighteenth-century British privateering law is the 1801 Prize Courts Act. This act was implemented at the turn of the century as a means to curtail the now widespread abuses by vice-admiralty courts that developed over the course of the 1800s. This piece of legislation is essential for understanding prize courts’ powerful position in local

³⁸ 13 Geo. II, 1740, c. 4, 366-367.

³⁹ *Ibid.*

⁴⁰ Swanson, *Predators and Prizes*, 37.

politics and economics. Its importance came not, like other acts, from the practices that it gave birth to but rather from the behaviors that it recognized.

The chronological leap to this from the 1740 Naval Prize Act is rather significant, which is worth explaining. Put simply, between these two acts British privateering law did not change. Each declaration of war throughout the second half of the century was accompanied by a law re-allowing the issuance of letters of marque. After the War of Jenkins' Ear, these declarations were effectively just copies of the 1740 Naval Prize Act. There were some tweaks to the minutiae of prize adjudication addressing how prize shares would be treated and how to assign an agent for managing these funds, but no substantive alterations were made. However, while these laws saw little to no change, the same cannot be said about the state of the Caribbean.

The half-century between the War of Jenkins' Ear and this act was a period of near-constant conflict between both established colonial powers and burgeoning nations such as the United States and Haiti. This warfare created an ever-present demand for sailors and warships that official navies of the time could not fulfill. For European powers, this meant that the only way to fully protect their territories and, more specifically, their trade was to rely on private warships.

The popularity of privateering set the stage for prize courts to become more and more necessary regional institutions. Especially toward the end of the century, these judges were near-autonomous brokers of economic and political power. As discussed earlier, these courts were able to attract income for a number of local businesses by offering preferential treatment to privateers seeking adjudication. However, some courts were able to expand their powers beyond their intended reach. For example, the infamous vice-admiralty court at Tortola was able to form an economic alliance with the nearby Danish colony of St. Thomas. Under their agreement,

British privateers would capture Danish merchant ships and process them in Tortola before selling their goods back to them. This meant that if these Danish ships were later captured and taken to a larger prize court, such as the one at Jamaica, they were able to show both that they were previously condemned or acquitted and that they had purchased all of their goods from a British source, thus protecting them from further legal scrutiny.⁴¹

While this example is only a small glimpse at the behaviors of prize courts it reveals the greater issue of these institutions' growing autonomy. This growth did not go unnoticed by the British as the 1801 Prize Courts Act was passed to reign in abuses and irregular behaviors of these local courts.

Among these transgressive behaviors was the overcharging of court fees. This was due to the fact that the majority of Vice-Admiralty judges' income came from the fees they levied upon prize adjudication and appeals rather than an allotted salary. These fees were technically regulated by the aforementioned statutes, but said regulations were very often ignored.⁴²

To combat these abuses, parliament implemented lifetime annuities for judges, enacted a clause that placed the regulation of court fees directly under the crown, and capped the potential profits for any individual case at 2,000 pounds.⁴³ While stipulations such as these were never strictly adhered to, they were all aimed at either preventing financial abuses by these courts or at removing the desire to commit such abuses.

⁴¹ Jeppe Mulich, *In a Sea of Empires: Networks and Crossings in the Revolutionary Caribbean*, (Cambridge, United Kingdom: Cambridge University Press, 2020), 98.

⁴² Swanson, *Predators and Prizes*, 45.

⁴³ 41 Geo. III, 1801, c. 96, in Pickering, ed., *The Statutes at Large, XLIII* (Cambridge: Cambridge University Press, 1801), 287.

The provision most directly aimed at stemming abuse by these judges stated that “no person during the time he shall hold the office of judges of any of the said court, shall either by himself or by any person on his behalf or for his benefit, act as agent for any prizes that may be captured from the enemy, or shall have any share or interest directly or indirectly in any privateer...”⁴⁴ This clause, in no uncertain terms, aimed to prevent judges from having conflicts of interest stemming from their investment in privateering ventures which would dissuade them from issuing fair, lawful judgments.

Conclusion

These three acts represent the general structure and trend of British privateering in the eighteenth-century. The American Act gave privateering a clear, defined structure relative to how the practice was regulated towards the end of the 1600s. While this piece of legislation had a number of provisions that would be short-lived (such as immunity from impressment), the majority of its body would serve as the template for privateering law throughout the rest of the period. The set of instructions from King George II and subsequent Naval Prize act of 1740 would cement the most essential aspects of the American Act while introducing a number of other provisions that would allow future privateers to facilitate the border-crossing social and economic interactions that will be discussed in future chapters (i.e., prisoner exchange and using correspondence as evidence). The 1801 Prize Courts Act served as a recognition of the outsized influence that prize courts had gained throughout the second half of the eighteenth-century and an attempt to rein in the abuses of vice-admiralty courts across the New World. These changes

⁴⁴ 41 Geo. III, 1801, c. 96, 291.

also signaled the shift of privateering away from European empires and into the hands of new burgeoning republics that occurred in the early nineteenth-century. While this 1801 act was certainly not as impactful as the two preceding it, it revealed that the power and autonomy that vice-admiralty courts had gained was an issue recognized by the British metropole.

Privateering created avenues for legal social and economic interactions during times of war that would otherwise be difficult to find, even during times of peace. These connections would allow for the dissemination of information and movement of people across imperial borders that defined the trans-imperial Caribbean. While there certainly was widespread abuse of these laws, these unlawful behaviors would be neither possible nor productive without the extensive legal framework that privateering provided. Putting aside this system's exploitation, many of the most important factors of privateering and vice-admiralty courts' influence came from the laws that established it. These practices include autonomy in deciding which prize court to use, time limitations placed upon these proceedings, requirements to traffic foreign merchants into domestic ports, high cost of litigation, and the use of documents found onboard captured ships as key evidence.

This focus on the legal foundation also helps to show how the creation of trans-imperial space occurred both from within and as a result of both intentional and incidental resistance to imperial design. Colonists existed within and altered their respective imperial spaces by interacting with and stretching the legal allowances they were given. As will be further discussed, this trans-imperial Caribbean was not built purely by imperial planning or the self-determination of its colonists, but rather the gradual and bi-directional interactions of the two pushing this region's denizens together.

PART II: THE IMPORTANCE OF PRIVATEERING AND ITS EFFECTS ON THE TRANS-IMPERIAL CARIBBEAN

Chapter 3: Privateering's Purpose and Popularity, Starting with the War of Jenkins' Ear

The reason for privateering and prize courts' explosion in popularity during the War of Jenkins' Ear (1739-1748) was the unique opportunity for local economic production that these institutions provided. The Caribbean of the eighteenth-century (and for most of its history for that matter) was a space economically reliant upon the export of agricultural goods and the import of European manufactures. Many Caribbean islands were so singularly focused on this agricultural production, specifically that of sugar, that they were not left with enough land to produce a self-sustaining amount of food. This meant that such islands were reliant on the import of produce from the American and Spanish mainland colonies to sufficiently feed their populace.⁴⁵

This imbalanced economy was, in large part, formed due to the mercantilist understandings of trade that dominated Europe throughout the Caribbean's development. While there is some debate as to the ubiquity of mercantilism's meaning, especially at the edges of these European empires, the extractive nature of the Caribbean's economy serves as a relatively prototypical example of these economic designs.⁴⁶ The central dogma of mercantilist theory is

⁴⁵ Richard B Sheridan, "The Crisis of Slave Subsistence in the British West Indies during and after the American Revolution," *The William and Mary Quarterly* 33, no. 4 (1976), 615.

⁴⁶ Steve Pincus, "Rethinking Mercantilism," *The William and Mary Quarterly* 69, no. 1 (2012), 3-34, <https://doi.org/10.5309/willmaryquar.69.1.0003>.

that trade is a zero-sum game because wealth is derived from land and the materials that could be extracted from it.⁴⁷ With this understanding, European colonies were established (from an economic standpoint) to claim a territory's land so that its wealth could be extracted to enrich its mother country while simultaneously depriving its rivals'.

Countries following this model were focused predominantly on precious metals such as silver and gold, resources that, in the New World, were largely controlled by Spain. The mineral resources that could be gathered in British colonies in the Caribbean could not even begin to compare to the massive wealth of mines such as that at Potosí. Instead, the British Empire had to rely upon trade and the development of sugar as a cash crop in the 1700s to establish their Caribbean colonies and make them productive.

The zero-sum nature of mercantilist economics meant that development and exploitation of land, while of primary importance, was not the only means of economic success. Plundering the wealth of competing empires served as a way to both enrich one's own territories while simultaneously devaluing another's. British colonies in the West Indies realized this strategy's value early on and used illicit trade and privateering voyages to establish themselves in the region at the expense of the Spanish empire.

These practices served as the means by which British colonists gained access to Spanish goods, most desirably precious metals. The balance of trade and economic power in the West Indies was heavily in favor of Spanish mainland colonies for much of the region's development as a result of their aforementioned gold and silver mines. The Spanish colonists' flush coffers did not necessarily translate to general prosperity, however. Much of the specie produced in the

⁴⁷ Pincus, 4.

New World would be hastily returned to Spain in their treasure fleet, or *Carrera de Indias*. This was a trade system where the Spanish would send two massive fleets to Vera Cruz and Panama, respectively, where these ships would deliver and sell goods that had been re-exported from European markets and return with the bullion that had been extracted from Spanish-American mines.

However, the *Carrera de Indias* was fraught with issues. Even when it was working as intended, which often was not the case, there were never enough goods to properly supply Spanish colonists. Many years it wasn't even possible for the fleet to make the trip to the Americas as a result of European conflict. The limitations presented by the trade fleet were further exacerbated by Spain's incredibly exclusionary trade policies, effectively preventing legal trade in anything other than slaves with non-Spanish colonies until the mid-to-late eighteenth-century. This resulted in widespread contraband trade since there was no legal means for many Spanish colonists to obtain many basic necessities (notably clothing). The British seized this opportunity and very aggressively sought illicit inroads into Spanish American markets, which they found in myriad ways. This trade was characterized by the purchase by British colonists of basic manufactures from England which they would then turn and sell to the Spanish in an attempt to access their bullion.

Since this trade was both illegal and spanned across rival imperial territories and legal systems, it did not occur without issue. Most notably, especially in the first half of the eighteenth-century, was the interference by Spanish *guarda costas*. *Guarda costas* (translating to coast guards in English) were a Spanish privateering force created to combat the widespread contraband trade that had formed to supply Spanish colonies with the goods of rival empires.

Ironically, these vessels were often being equipped thanks to illegally obtained supplies “like wheat and naval stores” present in these ships’ port of origin.⁴⁸

Guarda costa vessels were extremely aggressive in ship seizures. British vessels would be captured for merely possessing a few Spanish coins or goods while others were held purely on suspicion of contraband trade.⁴⁹ In addition to questionable seizures, *guarda costas* were generally viewed by the British as excessively violent and cruel. These characterizations were based in both fact and exaggeration, but nevertheless contributed greatly to British unrest and disdain for their Spanish neighbors in the time between Queen Anne’s war and the trade wars of the 1740s. Additionally, without a formal declaration of war, British colonists did not have access to the letters of marque necessary to retaliate against these perceived depredations. While the British Royal Navy was heavily present in the area, since Spain and Britain were officially at peace their ability to act against these Spanish privateers was limited by their military status.⁵⁰ This meant that, unlike the *guarda costas*, any action taken by the Royal Navy could be seen as an extension of the desires of the English government, rather than dismissed as the uncondoned actions of a private vessel.

The threat of formal warfare was especially daunting for British imperial planners because it put their cherished *asiento de negros* at risk. This contract gave the British exclusive rights to sell slaves to Spanish colonies and was effectively the only source of legal inter-imperial trade between the Spanish and British empires in the Caribbean at the time. This lucrative contract was enough to hold together a shaky peace, but as the value of the *asiento*

⁴⁸ Casey S. Schmitt, “Virtue in Corruption,” *Early American Studies* 13, no.1 (2015), 82.

⁴⁹ Schmitt, “Virtue in Corruption,” 98.

⁵⁰ *Ibid.*, 101.

gradually decreased in the years leading up to the War of Jenkins' Ear, so too did the prospects for formal neutrality.⁵¹

While conflicts such as the War of Jenkins' Ear caused major interruptions for European shipping, they had an inverse effect on local Caribbean economies. A Havana lawyer named Nicolás de Ribera even referred to this as “the happiest time” noting that “never had it been so rich or populated as then” and that “The Island began to abound in money.”⁵² This sudden prosperity was not an experience exclusive to Havana, but rather a general trend experienced by Caribbean colonies. This was mostly due to two major practices: privateering and contraband trade (which often went hand in hand).

During the time of peace leading up to this 1739 war, the Royal Navy was able to firmly entrench itself within the Anglo-Spanish contraband trade because it was the only British entity that could use “force or the threat thereof” to establish its economic niche.⁵³ However, British colonists were unhappy with the navy nearly monopolizing this role since many of them believed that local merchants, rather than the Royal Navy, should control this illicit trade. Some even claimed that the navy's intrusion was forcing unemployed sailors into a life of piracy.⁵⁴

What shifted this economic balance was the allowance by the British government to issue letters of marque at the beginning of the War of Jenkins' Ear. While this conflict was formally attributed to a refusal by the Spanish to make the payments agreed upon at the 1739 Convention of Pardo (which was meant to settle trade tensions and clearly establish the border between

⁵¹ Schmitt., 103.

⁵² Elena A. Schneider, *The Occupation of Havana*, (Williamsburg: Omohundro Institute of Early American History & Culture, 2018), 95.

⁵³ Schmitt, 101.

⁵⁴ *Ibid.*, 102.

Florida and Georgia), in reality it was a war fought over trade.⁵⁵ The Spanish were upset over British commercial encroachment on their mainland colonial holdings through illicit trade, while the British were upset (among other things) over harassment by the *guarda costas* who were attempting to stymie such overtures.⁵⁶

Many English merchants believed that the best way to both increase their trade with Spanish America while simultaneously getting back at the *guarda costas* would be through privateering.⁵⁷ While money was certainly being made off of these voyages by investment from London, these legal changes would most directly enrich local merchants. As such, many British colonists, both in North America and the Caribbean, were chomping at the bit to set off on privateering voyages. When word of privateering's legalization finally arrived in 1739, the *Boston Gazette* claimed that "Upon receiving the so long wish'd for News, that Liberty is granted us to make Reprisals upon the Spaniards, the Merchants of this Place are fitting out their Sloops for that Purpose, and will sail next week at farthest..."⁵⁸ Claims from the *Boston Evening Post* suggested a similar situation in the Caribbean: "'Tis said that upon the first Advice of a War, all Business will be laid aside in Jamaica, but that of Privateering."⁵⁹ This same excitement could even be found in the official communications of William Stephens, an administrative secretary in Georgia, who claimed that within a "few days" of the news reaching Savannah, "there were three sloops equipped and ready to sail... and three or four more would soon be

⁵⁵ Duke of Newcastle to Edward Trelawny, June 15, "America and West Indies: June 1739," in *Calendar of State Papers Colonial, America and West Indies: Volume 45, 1739*, ed. K G Davies (London: Her Majesty's Stationery Office, 1994), 112-130. *British History Online*, accessed November 20, 2021, <http://www.british-history.ac.uk/calendar-papers/colonial/america-west-indies/vol45/pp112-130>

⁵⁶ Swanson, *Predators and Prizes*, 10.

⁵⁷ Swanson, 10.

⁵⁸ *Ibid.*, 12.

⁵⁹ *Ibid.*

ready to follow.”⁶⁰ Across British colonies, privateering’s return dominated local papers, showing just how eager these colonists were to receive this news.⁶¹

While negative public perception of the Spanish empire certainly aided its popularity, privateering’s real draw came from its economic opportunities. On top of the already alluring value of Spanish ships, both Parliament and local governments did what they could to sweeten the deal for privateering crews. For example, included in the 1740 Naval Prize Act was a provision that allowed privateers to keep the entirety of their prizes, avoiding taxation from the crown or court.⁶² Similarly, the local governments of New York and Massachusetts made prizes exempt from certain duties.⁶³

This widespread excitement demonstrates how popular and profitable privateering was during its first major boom in the eighteenth-century. With this in mind, it is easy to understand why vice-admiralty courts were so influential. These courts had massive control over both privateers’ earnings and the interpretation of the laws governing them.

At the core of this control was the allowance made in the American Act (and upheld in the 1740 Naval Prize Act) for privateers to choose from any prize court when seeking adjudication. The most immediate implication of this provision is that privateers coming from outside of the Caribbean (usually North American colonies) were able to use local prize courts to adjudicate their captures. This meant that a considerable portion of the wealth that was being

⁶⁰ William Stephens to Harman Verelst, September 10, "America and West Indies: September 1739," in *Calendar of State Papers Colonial, America and West Indies: Volume 45, 1739*, ed. K G Davies (London: Her Majesty's Stationery Office, 1994), 174-191. *British History Online*, accessed November 20, 2021, <http://www.british-history.ac.uk/cal-state-papers/colonial/america-west-indies/vol45/pp174-191>

⁶¹ Swanson, 12-13.

⁶² 13 Geo. II, 1740, c. 4, 360.

⁶³ Swanson, 15.

generated by these voyages was being used to stimulate the economies which existed around these courts.

The courts recognized and supported their prominent role as economic (and, by extension, political) power brokers for their colonies. One example of this can be seen in 1744 New York where the vice-admiralty judge, Lewis Morris, prevented taxation of captured French produce under the Molasses Act: “no Prize Sugars are Lyable to Pay the Duty laid upon Foreign Sugars etc.”⁶⁴ This meant that privateers were entitled to an even larger percentage of their capture since they were effectively granted a tax break on any captured sugar. This decree was supported soon after by governor George Clinton who petitioned the Commissioners of Customs to adhere to this judge’s ruling. This example reveals that these judges were willing not only to bend the law to privateers’ advantage, but to wholly change the legal landscape through their interpretations to officially make prize adjudication more favorable.

In addition to influencing local laws and politics, these courts could better attract privateers seeking adjudication by offering competitive court fees. Generally, a court’s notoriety for acting favorably towards privateers would precede them, but in some instances, they would take a more active role in establishing this reputation. One such example can be found in 1740 from Massachusetts when Judge Robert Auchmuty took out an ad in a Boston paper to simultaneously defend and advertise New England courts’ low rates: “These are therefore to advertise the Publick, that the Fees of that Court in such Cases are considerably less than in any other of His Majesty’s Plantations, and always were so intended.”⁶⁵ This was a rather clear

⁶⁴ Swanson, 15.

⁶⁵ *Ibid.*, 44.

attempt to draw more business by making it known that New England courts were especially friendly towards captors in prize cases.

While this desire to lure prize cases certainly stimulated local economies, it did so through a trickle-down approach. Vice-admiralty judges were interested first and foremost in increasing their income, which was achieved more through the fees charged upon cases than their allotted salary. The legal maximum for court fees based on the tonnage of the given vessel was first established by the American Act, but these limits were widely ignored. Examples of excessive fees can be tracked in remaining court receipts with judges knowingly charging upwards of double the legal maximum of £15.⁶⁶

While this illegal judicial up-charging was certainly rampant, even if these judges stuck to the exact letter of the law, prize adjudication would present a daunting investment for both privateers and appellants alike. As covered in the second chapter, the American Act and 1740 Naval Prize Act levied myriad costs for sailors seeking to claim their captures or appeal prize decisions. These costs included the aforementioned court fees (formally limited to £15), double costs of the value of the captured goods required to initiate a salvage claim, costs necessary to pay for appraisal of goods, and the securities necessary to begin the appeals process.⁶⁷ On top of this already considerable list of fees were the necessary costs to cover the auctioning of cargo, the costs necessary to care for ships awaiting adjudication, the costs to resupply one's ship before leaving, lawyer's fees, as well as the costs necessary to live at the port of the prize court until the trial concluded.⁶⁸ In addition to these legal costs was the requirement for privateers to stay at port without breaking bulk until a vessel was condemned as a prize. When these costs are

⁶⁶ Swanson, 45-46.

⁶⁷ *An Act for the encouragement of trade to America*, 466.

⁶⁸ Swanson, 47.

considered alongside the temporal requirements established by the 1708 and 1740 laws, it becomes clear why having a desirable prize court served as such a major economic boon. If a vice-admiralty court was able to attract sufficient privateers, it could hold them in place for at least twenty days, require them to pay the legal fees, and effectively force them to stimulate the local economy by purchasing necessities. Any such court, and especially one known to be friendly to privateers, was a major source of income for its surrounding colony.

Since this characterization may make it seem as if prize courts were extorting these privateers, it is important to establish how mutually beneficial this relationship was. Privateers enjoyed an estimated rate of successful prize condemnation of about 92 percent for the entirety of the War of Jenkins' Ear and King George's War (1739-1748).⁶⁹ This meant that for privateers, the hefty court fees were almost always being offset by considerable profits (something that could not be said for those seeking to make a salvage claim or appeal). In addition, it is estimated based on available sources that section IV of the 1740 privateering act (copied directly from the American Act) which established the twenty-day period for making salvage claims was ignored in nearly half of all cases from 1740-1744.⁷⁰ This meant that vice-admiralty judges were often hastily rewarding privateers without giving ships' original owners a chance to make their claim. The judges forced them into the difficult and expensive appeals process if they wished to challenge the decision. Merchants seeking salvage claims at this time seem to have been aware of these courts' pension for rapid prize processing. John Reynell, an American merchant, wrote in a 1746 letter to a salvaged vessel's owner "I can't tell you how long time the court will give us, but I hope you will not loose any time in sending both [a

⁶⁹ Swanson, 42.

⁷⁰ *Ibid.*, 43.

certificate of the ship's register and one of its sailors] as soon as ever you can."⁷¹ Even with this willingness by judges to expedite the prize process, these cases lasted an average of 32 days from 1739-1748.⁷² This provided more than enough time for these sailors to inject their wealth into these colonial economies.

Vice-admiralty judges' local ties were often at the core of their willingness to support privateers. In many cases, these judges were men who had minimal legal backgrounds and were selected to serve the interests of their island's population.⁷³ As evidenced by a secretary of the Admiralty's worry that "it is much to be feared [Vice-Admiralty Courts] are not well versed in the Laws of Nations, and Treaties between Us and other States..." in 1718, it is clear that these judges' reputation as often merely nominal jurists was well known even before the proliferation of prize courts that occurred in the second half of the century. Standard practice was for these judges to be selected by local governors and assemblies, but occasionally they would be selected directly by the High Admiralty court of England. Even these latter judges, usually with stronger legal backgrounds, would often end up capitulating to local desires for less restrictive prize adjudication. For example, Leonard Lockman (a judge appointed in Rhode Island by direct British intervention despite protests by local officials) was later found to condemn "three vessels on the same day they were libeled," completely ignoring the legally required 20-day period for salvage claims.⁷⁴

In addition to their local connections, another reason for these judges' favorable prize rulings was often their unwillingness to spoil the investments of their benefactors or themselves.

⁷¹ Swanson, 42.

⁷² *Ibid.*, 44.

⁷³ Mulich, *In a Sea of Empires*, 96.

⁷⁴ Swanson, 41.

Privateer voyages were often outfitted by groups of investors who would put forward the capital necessary to obtain a letter of marque and cover any other costs necessary for a crew to set out on a voyage. In return, these investors would receive an agreed upon portion of any capture made. These investments can be seen as some combination of sports gambling and stock market speculation. The return on investment could vary based on the goods possessed by the captured ship or its status as a salvage vessel, and in the very worst cases the privateer vessel could be captured or destroyed, leaving investors at a massive deficit. This investment enterprise made up a notable portion of privateering as a business entity and constituted a major reason for regional polities' desire for influence upon who served as their admiralty judge. Along with this outside influence was the fact that judges were found to be investors themselves. While it is unclear the extent to which this occurred, the fact that the Prize Courts Act of 1801 specifically sought to outlaw this practice would suggest that it was pervasive enough to attract the attention of metropolitan policy makers.

It is from the start of the War of Jenkins' Ear (1739) on that privateering can be seriously analyzed as a principal force of regional definition. In previous Caribbean conflicts, private raiding either did not play a large enough role or did not have the extensive legal framework that allowed the practice to flourish. This changed during the War of Jenkins' Ear thanks to eagerness built up by years of *guarda costa* harassment, general fervor to access trade with Spanish colonies, a greater population thanks to years of colonial settlement, and a clearly established legal framework to operate within. Privateering's massive popularity incentivized vice-admiralty judges to bend and abuse these laws to privateers' benefit in an attempt to both enrich the colony that their court was established in and to elevate their position as economic and political powerbrokers. It is thanks to this widespread popularity and judicial assistance that

privateers were able to achieve the influence that they would (often inadvertently) yield throughout the frequent conflicts of the second half of the century. In this context, privateering would become a key conduit for the interactions that would help shape the trans-imperial Caribbean.

Chapter 4: Privateering's Role in the Creation of the Trans-Imperial Caribbean

Movement of People

In *An Aqueous Territory*, Ernesto Bassi argues that the frequent movement of sailors across imperial borders facilitated the creation of a “transnational [or transimperial] social field.”⁷⁵ This conception of space was built by the “gathering and spread [of] information obtained at ports and on the high seas” which these sailors were then able to spread to the “less mobile coastal and island denizens.”⁷⁶ Bassi claims that central to this network of information were the free trade policies that were implemented across both the Spanish and British empire in the second half of the eighteenth-century. However, many of these same themes such as the importance of the spread of information by sailors and the central role of economic interaction in this exchange of information can be seen in the prize and privateering practices that were taking place both before and alongside this push for free trade. Furthermore, much of this interaction was made possible by the legal requirements of privateering and the greater economic system that the practice built. This can specifically be seen through prisoner exchange, the appeals process for prize adjudication, the expectation of captains to record intelligence collected on their journeys, and the unique commercial system of *rescates* which allowed for the licensed repurchase of prize goods across imperial borders.

⁷⁵ Bassi, *An Aqueous Territory*, 21.

⁷⁶ *Ibid.*

Along with its propensity for moving diverse groups of sailors and their information across imperial borders, privateering's connection to the contraband trade was principal in its importance in the construction of the trans-imperial Caribbean. As discussed previously, between Queen Anne's War (1702-1714) and the trade wars of 1739-1748, British contraband trade was largely in the hands of the Royal Navy and the South Sea Company (which was set up to manage the slave trade allowed by the *asiento de negros*). The reason that privateering did not play a major role in this trade was simply because it was not allowed. This 35-year period constituted a relatively uncharacteristic time of formal peace between the British and Spanish empires in the West Indies which was held together by the *asiento*'s profitability. However, once this contract's mutually beneficial nature wore out, so too did the shaky peace that it held together.

It is during the War of Jenkins' Ear that privateering's role as a trans-imperial region maker can first be seen. With war officially declared, private merchants were able, through letters of marque, to access the same "force or threat thereof" that they felt had allowed the British navy to control the contraband trade for decades.⁷⁷ These voyages would bring back windfalls of otherwise legally inaccessible goods, along with the imprisoned foreign sailors. It is largely through this interaction centered around these imprisoned merchants and seamen that contraband networks were able to maintain themselves and even grow in times of war.

As established by the 1740 Naval Prize Act, any privateer returning with a prize was required "to bring or send... Three or Four of the Principal of the Company... of every Ship so brought into Port."⁷⁸ This meant that every time a privateer captured a vessel, they were required

⁷⁷ Schmitt, "Virtue in Corruption," 101.

⁷⁸ 13 Geo. II, 1740, c. 4, 366-367.

to also apprehend at least three of the highest-ranking officials on board. This mandatory movement of foreign merchants led to considerable prisoner populations at major port cities. Trafficked sailors often received prolonged opportunities to learn more about the culture, language, and people of the colonies in which they were being held, as well as collect vital military intelligence. Elena Schneider argues that prisoner populations and prisoner exchange “fostered the most interaction—and forged the closest ties—between Spanish and non-Spanish colonies.”⁷⁹

Privateers would not limit their party of prisoners to the “three or four” required by the 1740 act, however. Entire crews of both military and merchant ships would be held prisoner and often put to work until they could be ransomed.⁸⁰ In fact, reports by British sailors and newspapers estimated that the static population of imprisoned sailors at Havana, a Spanish privateering hub, was upwards of 200 during the War of Jenkins’ Ear (additionally, records in Seville show that 920 new prisoners were taken to Havana in a two-year stretch from 1747-49).⁸¹

The pretense of prisoner exchange allowed both Spanish and British parties a legal avenue into foreign ports during times of war. As was “customary privilege during wartime,” vessels were permitted to sail into hostile foreign ports so long as they were flying a flag of truce.⁸² These flag-of-truce voyages were the *modus operandi* for prisoner exchange as well as a convenient pretext for contraband trade. While the financial draw of illicit exchanges was certainly great, the value of these prisoners’ information should not be under-valued. These sailors were able to track information about market prices, availability of goods, and military

⁷⁹ Schneider, *The Occupation of Havana*, 104.

⁸⁰ *Pennsylvania Gazette*, October 22, 1741.

⁸¹ *Ibid.*

⁸² Schneider, 105.

capabilities, as well as follow up on potential trade relationships that they had formed during their time in captivity.⁸³

Another aspect of the legal structure of prize-adjudication that contributed to this trans-imperial interaction was the intentionally obtuse nature of the appeals process. As discussed previously, prize law was both set up and practiced in a way that heavily favored privateers. The appeals process was extremely costly, generally ineffective, and in its earlier forms required the case to be tried in Europe.⁸⁴ These appeals were generally only successfully used by neutral parties since letters of marque allowed for effectively free reign against the vessels of an enemy nation so long as the captured vessel's national alliance could be determined. What is important about this appeal system was not its efficacy, but rather its use as a legal avenue into hostile foreign ports. Similar to laws around flag-of-truce ships, appeals granted an opportunity for prolonged exposure to otherwise inaccessible colonial spaces. Since the Spanish appeal system was set up quite similarly, this also gave British sailors much desired legal access to Spanish ports. This resulted most often from peace-time seizures by *guarda costas* (which were privateers) of British vessels suspected of contraband trading. Appealing such captures could place British subjects within Spanish port cities for upwards of fourteen weeks, providing opportunities to both disseminate information between imperial boundaries and for the social and commercial interactions that built contraband networks.⁸⁵

This movement of people and information across imperial boundaries allowed the region's populace to build an understanding of space that transcended the geographic borders of

⁸³ Schneider, 107.

⁸⁴ *An Act for the Encouragement of Trade to America*, 466; 13 Geo. II, 1740, c. 4, 364.

⁸⁵ Joyce Elizabeth Harman, *Trade and Privateering in Spanish Florida 1732-1763*, (Tuscaloosa: University of Alabama Press, 2004), 47.

their empire. Additionally, this traffic of ideas and information extended to every level of society. While prisoner exchange certainly impacted the upper and middle levels of the social hierarchy, it was people African descent (both free and enslaved) who were most at risk of displacement as a result of these privateering voyages. This was due to Spanish privateers targeting and raiding Jamaican plantations to steal slaves and then auction them off back in Havana, and British privateers capturing Spanish sailors of African descent and selling them into slavery (regardless of their legal status).⁸⁶ This movement of people as prisoners was all-encompassing when it came to social class and meant that the information and understanding gleaned from these sailors' time in captivity was being spread across the entire hierarchy of Caribbean society.

In addition to the regional mixing that the forced border-crossing of slaves and prisoners created, crews of privateering vessels themselves often presented an incredibly diverse cross-section of Caribbean identity. This was mostly driven by the fierce competition for competent sailors created by imperial conflict. During times of war, the maritime laborers of the region were split between the navies, merchant marine forces, and privateering crews of each respective empire. Often individuals would have had experiences in more than one of these branches due to the rate of turnover and desertion experienced among these naval workforces. This exchange of sailors was also exacerbated by the practice of impressment (forcing sailors into naval service) by navies. This created a somewhat circular effect of impressment and desertion. Working onboard a military vessel was by far the least desirable of the three options due to low and irregular wages, rigorous corporal punishment, and the ever-present risk of battle.⁸⁷ This poor

⁸⁶ Schneider, 101, 104.

⁸⁷ Swanson, *Predators and Prizes*, 103-104.

treatment led to an increased rate of desertion, which in turn led to a greater need for impressment. It is through this cycle that this diverse set of sailors were mixed together in various contexts.

Competition for sailors meant that recruiters could not afford to be particular about ethnicity and nationality when looking to employ seamen. This led to large foreign-born populations within each empire's naval forces.⁸⁸ Especially common among this population were both current and former slaves. The practice of masters hiring out their slaves for naval service was not uncommon, and recruiters' lack of discretion in hiring meant that a life at sea provided an enticing avenue to escape the brutal conditions of plantations.⁸⁹ This presence of foreign sailors mixed with constant turnover and prisoner exchange presented an interesting opportunity for the construction of space built off of information gained from diverse, multi-regional experiences. This exchange constituted the core of the trans-imperial Caribbean's creation, a space built by the swapping of information and experiences by these border-crossing, constantly mobile actors rather than by the separation created by an empire's laws and territories. Simply put, the conception of space that regional denizens operated within was built more by the information spread by these sailors than by adherence to political boundaries.

The dissemination of these sailors' information and intelligence to the region's more static colonists did not happen entirely by accident. Imperial planners recognized the value of the intrinsically interconnective nature of privateering voyages and made sure to require these sailors to keep track of whatever details they were able to gather about their enemies at sea. This can clearly be seen in provision XI of the set of instructions George II sent at the beginning of

⁸⁸ Edgardo Pérez Morales, *No Limits to Their Sway*, (Nashville: Vanderbilt University Press, 2018), 22.

⁸⁹ Morales, 14-15.

the War of Jenkins' Ear. In this act, privateers were requested to record an account of their prize capture as well as any information about enemy military or commercial designs they were able to gather from questioning their prisoners.⁹⁰

The information that these prisoners and sailors spread did not just sit idly in the minds of colonists. In fact, it predicated some of the major military operations of this period. For example, Admiral Edward Vernon's invasion of Cartagena during the War of Jenkins' Ear was predicated upon information from British prisoners smuggled out of a local jail.⁹¹ The later invasion of Havana during the Seven Years War (1756-1763) was fueled by similarly gathered intelligence, and it could even be argued that popular British enthusiasm for the capture of this Cuban colony was based on conceptions of the island built by those held prisoner there during the War of Jenkins' Ear.⁹²

Privateering's importance as a means of inter-imperial commercial and social connection would gain even more legal legitimacy as the second half of the century progressed. This was in large part due to the movement towards free trade that the region experienced starting in the 1760s. From a Spanish perspective, this took the shape of a formal departure from the monopolistic *Carrera de Indias* that had dominated the legal trade to Spanish New World colonies. This commercial shift was spurred most directly by Britain's capture of Havana during the final years of the Seven Years War. This loss had disastrous effects on Spain's American holdings, leading to their loss of Florida, the Honduran coast's supply of dyewoods, and their rights to fish in Newfoundland.⁹³ This blow forced Spanish imperial planners to realize that, as

⁹⁰ "Instructions of George II," 349.

⁹¹ Schmitt, 80-81.

⁹² Schneider, 108, 113.

⁹³ Bassi, 52.

things were, Spain could no longer reliably defend their territories. It was decided that the outdated “backwardness” of their convoy system was central to their colonies’ weak defenses.⁹⁴ Thus, the recommendations of the committee in charge of reviewing Spain’s commercial systems were turned into the 1765 *Reglamento del comercio libre a las Islas de Barlovento*. This new system’s impacts were limited mostly to Cuba where merchants were now able “to trade directly with multiple Spanish ports” and “buy slaves directly from foreign depots in the Caribbean.”⁹⁵ This new system found great success and was expanded upon with similar ports being opened in Louisiana, Yucatán, Santa Marta, and Riohacha.⁹⁶

While Britain came out of this conflict victorious, it did not come without a cost. To financially recover from the Seven Years War, Britain implemented a series of new taxes to extract greater profits from its colonies, most notably the Sugar Act and the Stamp Act. The implementation of this legislation led to a commercial crisis between Britain and its North American colonies, opening the door for Caribbean merchants to successfully lobby for long-desired free trade policies. As a result, the Free Port Act was passed in 1766, allowing specific ports in Dominica and Jamaica to trade with foreign vessels.⁹⁷ This act allowed for the free trade of anything other than a handful of specifically enumerated goods.⁹⁸ This enabled an odd system of semi-legal Anglo-Spanish trade wherein British colonists were able to legally trade goods to the Spanish, while the Spanish were still technically engaging in contraband. This is because the

⁹⁴ Bassi, 52.

⁹⁵ *Ibid.*, 54.

⁹⁶ *Ibid.*, 55.

⁹⁷ 5 Geo. III, 1765, c. 49, in Pickering, ed., *The Statutes at Large, XXVII* (Cambridge: Cambridge University Press, 1762), 262.

⁹⁸ *Ibid.*, 263.

Spanish system only allowed for freer trade between Spain and its colonies, while still excluding foreign colonies in the Caribbean.

While these policies were long desired by denizens of the West Indies, they did not last. Soon after their passage, the region was again plunged into warfare by Spain's entry into the American Revolution. This caused both empires' newly implemented trade systems to effectively collapse. This malfunction was relatively short-lived, however, with similar policies being successfully reinstated soon after the war's end.⁹⁹ This new system also included the Spanish allowance for merchants to engage in free trade with foreign neutrals, setting up a time of unprecedented legal economic interaction in the late 1700s.

While prisoner exchange would continue, as trans-imperial trade took a more legal tinge starting in the 1760s, so too would the commercial interactions facilitated by privateering. Specifically during the American Revolution and later wars of the 1790s, this trade was exemplified by the practice of *rescates* (Spanish meaning ransom). *Rescate* trade was a commercial system wherein Spanish merchants could repurchase goods captured by British privateers. To do this, Spanish merchants secured a permit that allowed them entrance to British ports to reclaim specifically enumerated goods or ships (although, in practice, these permits allowed for a much wider array of economic interactions). This trade allowed for the continuance of the networks of free, legal trade that had been established during times of peace as well as, and perhaps most importantly, facilitating the still healthy contraband exchange that was characteristic of these inter-regional interactions.

⁹⁹ Bassi, 56.

Rescate was a term that was originally used by Spanish colonists as a catch-all phrase for illicit trade with foreigners. However, by the second half of the eighteenth-century, its meaning had shifted to more exclusively refer to this system of re-purchasing ships captured by enemy privateers. By the late 1790s, Cuba and Mexico served as the clear focal point for these ransom operations (although some notable permits were granted directly from Spain).¹⁰⁰ Cuba's importance in this system came from its loosely worded and easily gained permits. Juan de Arozena, a merchant who utilized these *rescate* permits claimed that they were "issued daily" in Cuba and that the flow of goods resulting from these interactions was "'normal and frequent.'"¹⁰¹ Mexico's permits seemed to have been a bit more strictly worded. While a *rescate* from Havana may have allowed one to "ransom Spanish goods and foodstuffs, captured by the British corsairs" Mexican permits would usually only greenlight the purchase of specifically enumerated ships or "essential supplies" such as mercury or paper.¹⁰² This regulatory difference was a result of the massive, historically guarded wealth of Mexican markets, as well as its relatively more limited access to neutral markets when compared to Cuba.

While the legal trade that this system facilitated was certainly important in maintaining the new status-quo of lawful trans-imperial interaction and trade, the main draw of *rescates* was contraband. Spanish merchants would use these passes to gain access to Kingston markets where, thanks to the broad wording of the Cuban permits, they were able to buy all manner of goods. Since there was no specificity as to the cargo, ship, or types of goods that could be bought, little was done to ensure whether the goods being purchased were, in fact, prize goods.

¹⁰⁰ Adrian J. Pearce, "Rescates and Anglo-Spanish Trade," *Journal of Latin American Studies* 38, no. 3 (2006), 609.

¹⁰¹ *Ibid.*, 610.

¹⁰² *Ibid.*, 609-610, 614.

While this *rescate* trade was, by all means, legal, its use as a cover for contraband was well known to Cubans.

Contraband's entrance into Spanish American markets was clearly evident through the outspoken disapproval of merchants who had historically enjoyed monopolistic rights to trade in the region. A local guild claimed that "'never had so much silver and gold been exported by contraband as since the so-called Azanza permits'" (Miguel José de Azanza being the viceroy of Mexico at the time).¹⁰³ Journalist Juan López Cancelada mirrored these concerns when he wrote "'it is true that contraband has developed in Mexico in a scandalous manner'" due to government authorization in the form of the Azanza permits.¹⁰⁴

Since *rescates* were only given to merchants who were ostensibly planning on retrieving prize goods (even when broadly worded), these operations were focused entirely in British ports that possessed Courts of Vice-Admiralty. This further illustrates just how profitable having such a court was for colonies during times of war. Examining this practice alongside prisoner exchange elucidates just how influential these legal institutions were, both financially and when considering the information network which helped build the trans-imperial Caribbean. In fact, *rescates* permits, similar to letters of marque, would sometimes possess clauses directly requiring the gathering of intelligence as part of their voyage (in addition to being asked for reports even when it was not necessarily stipulated).¹⁰⁵ British officials were aware of both Spanish efforts at espionage as well as the massive system of smuggling that had grown out of the trade, but were

¹⁰³ Pearce, "Rescates and Anglo-Spanish Trade," 611.

¹⁰⁴ *Ibid.*, 613.

¹⁰⁵ *Ibid.*, 615.

more than willing to turn a blind eye due to the amount of bullion that these transactions were yielding.

While *rescate* trade technically required a license, it occurred with such frequency and in such scope that it effectively constituted free trade. The openness of this trade was important for maintaining the social and commercial relationships that had been built in times of peace, as well as possibly allowing for even more connections to be built through the interaction and contraband networks that this system facilitated. Additionally, it allowed for the continued flow of information between the regions at a time where, from a British or Spanish imperial planner's perspective, hostile nations should have been denied access.

Privateering helped build trans-imperial conceptions of space in the Caribbean by allowing for a degree of interaction between colonies that was difficult to achieve even during times of peace. The practice of prisoner exchange allowed inhabitants to legally experience life in foreign colonies, build trade networks, and carry information and intelligence back home with them. This knowledge expanded the regional horizons of more static colonists to include these foreign territories. In addition to this prisoner exchange was a degree of ethnic and national heterogeneity among crews which further expanded the diversity and depth of the information that these ships carried to port. Finally, as trade became freer, privateering played an essential role in maintaining the social and commercial networks that would otherwise be interrupted and perhaps even destroyed by the constant presence or threat of war.

Separation from Europe

Privateering's role in defining the Caribbean as a region distinct from its apparent colonial borders was not limited to its ability to create and facilitate trans-imperial social and commercial interactions. The other side of this proverbial coin was these prize-taking practices' capacity for separating these colonies from their imperial metropole. At the core of this detachment was the competition between the re-exportation trade (the most profitable trade route between Britain and the West Indies) and the contraband trade. Privateering was not the root cause of this competition, but it actively contributed to it by supporting and facilitating contraband. Additionally, since privateering was intrinsically reliant upon warfare, which would invariably halt re-exportation trade, it was impossible for these two systems to exist harmoniously. As such, privateering existed as a commercial tool that served the needs and wants of those local to the Caribbean above all else, even at the expense of the imperial metropole.

Re-exportation trade was a system in which British merchants would send their manufactures to Spain where they would be placed on the Spanish *flota* and *galeones* fleets which would deliver said goods to the trade fairs at colonies such as Vera Cruz and Panama. This practice was not exclusive to the British, re-exportation via Spain was so well used by European powers that Saxon jurist Samuel Pufendorf observed that while “the Spaniards keep the Cow” (referring to legal control over the trade routes) “others have the Milk” (the profits that such trade produced).¹⁰⁶

¹⁰⁶ Samuel Pufendorf, *An Introduction to the History of the Principal Kingdoms and States of Europe*, trans. Jodocus Crull, ed. Michael J. Seidler, (Indianapolis: Liberty Fund, Inc., 2013), 87.

While this method of trade was widely utilized, it was not actually legal for the British until the 1713 Treaty of Utrecht. Spanish mercantilist trade policy was constructed to be as protective of the European side of New World trade as it was its West-Atlantic counterpart. This meant that European merchants had to engage in an array of illicit schemes to access these so desperately desired markets. Early in the seventeenth-century, this was done either by English merchants who had been naturalized by Spain, making them fit for trade, or by the sale of British goods to a Spanish merchant.¹⁰⁷ However, due to these practices' greater risk and lower yield, they would later fall out of favor and be replaced by the use of Spanish cover-men (known as *prestanombres*). These middle-men would ship the goods of foreign merchants under their names in return for a cut of the profits (different from foreign merchants selling directly to the Spanish since *prestanombres* never actually owned the cargo).¹⁰⁸ This method of contraband would come to constitute the majority of foreign re-exportation by the late 1600s.¹⁰⁹

These practices made re-export trade a massively profitable and long-established avenue for English commerce. In the early seventeenth-century, “almost two thirds of England’s exports to the Mediterranean” were being routed toward Spain, the vast majority of which were headed towards the New World.¹¹⁰ Furthermore, it is estimated that by 1700 this system of trade accounted for 20 percent of all English foreign trade.¹¹¹

Throughout the eighteenth-century, while this system remained wildly lucrative, re-exportation through Spain became characterized by a series of interruptions resulting from Anglo-Spanish warfare. This began with the War of Spanish Succession (1704-1714) which

¹⁰⁷ Stanley J. and Barbara H. Stein, *Silver, Trade and War* (Baltimore: Johns Hopkins University Press, 2000), 101.

¹⁰⁸ Adrian J. Pearce, *British Trade with Spanish America* (Liverpool: Liverpool University Press, 2007), 4.

¹⁰⁹ *Ibid.*

¹¹⁰ Stein, *Silver, Trade, and War*, 86.

¹¹¹ Pearce, *British Trade with Spanish America*, 6.

resulted in the expulsion of many British merchants from Spain as well as a total suspension of this route due to strict war-time prohibitions.¹¹² Such conflicts gave Caribbean contraband networks time to grow effectively unbothered by competition from the exportation of European goods through the Spanish trade fleet. This war ended with the Treaty of Utrecht which established a new status quo in Anglo-Spanish trade, defined largely by the granting of the previously discussed *asiento*. This treaty's perceived friendliness towards illicit trade (seen mostly in the concession for the South Sea Company to sell slaves directly to Spanish colonies which was widely used as legal cover for contraband) in the West Indies prompted debate between the use of the more established re-export trade route and the burgeoning trade networks that were being clandestinely established in the New World.

This perceived expansion of contraband trade in the Caribbean was met with a great deal of criticism by British re-export traders. Notably, writer Daniel Defoe referred to the Jamaican traders as "piratical" and "malicious" as well as suggesting that their commerce was redundant when compared with re-exportation and only served to detract from the profits of European traders and destabilize the peace that they relied upon.¹¹³ This concern over smuggler's effects on Anglo-Spanish diplomatic relations was certainly well-founded. During times of war, British factors in Spain would be cut off from their commercial connections and, in the most extreme cases, have their property seized.¹¹⁴ Even outside of times of formal conflict, British access to the permission ships that transferred manufactures to trade fairs in the New World would often

¹¹² Pearce, *British Trade with Spanish America*, 6.

¹¹³ Daniel Defoe, *A Plan of the English Commerce*, (London: Bible and Crown, 1728), 325; Daniel Defoe, *Mercator: or Commerce Retrieved* (London), no. 170, 22 June, 1714.

¹¹⁴ Pearce, *British Trade with Spanish America*, 8.

be obstructed in no small part due to political tensions surrounding smuggling in the Caribbean.¹¹⁵

This effectively placed these two trade routes in direct competition with one another. Contraband and re-export demanded incompatible political situations with contraband both leading to and benefitting from war between Spain and Britain. It was also difficult for re-export merchants to become more involved in illicit trade in America because it was complicated to penetrate and far less reliable. Additionally, the goods re-exported to the trade fairs were devalued by competition from these local contraband routes.¹¹⁶ Merchants invested in the Jamaican trade (along with those comprising the privateering business interest) were well aware of the boon that Anglo-Spanish war would be for their profits and actively lobbied public perception and the British government towards war.¹¹⁷

This lobbying and illicit trade, among other factors, would eventually lead to the War of Jenkins' Ear, allowing for contraband trade to expand (in large part thanks to privateering) and move out of the hands of the South Sea Company and into those of local merchants (mostly in Jamaica). However, this success should not be construed as a shifting of imperial planners' favor to the side of American traders. Although it was subject to frequent interruption by warfare, re-exportation was by far the more profitable branch of trade from the perspective of the British metropole. For example: in 1700 the British profit of re-exportation was valued at £400,000 compared to the estimated £100,000-£200,000 of contraband, by 1725 re-exportation was valued at around £630,000 to contraband's £300,000, and by 1761 re-exportation was

¹¹⁵ Adrian Finucane, *The Temptations of Trade*, (Philadelphia: The University of Pennsylvania Press, 2016), 49.

¹¹⁶ Jean O. McLachlan, *Trade and Peace with Old Spain, 1667-1750*, (Cambridge: The University Press, 1940), 24.

¹¹⁷ Harold W. V. Temperley, "The Causes of the War of Jenkins' Ear," *Transactions of the Royal Historical Society* 3 (1909), 222-223; Richard Pares, *War and Trade in the West Indies, 1739-1763* (London: F. Cass, 1963), 46.

bringing in over £1,000,000 to contraband's approximate £300,000.¹¹⁸ During times of war, the estimated profits of contraband could exceed £500,000, but windfalls such as this were infrequent and relied on massive military victories, such as the capture of Havana.¹¹⁹ Another issue with the yields of contraband trade from an imperial perspective is that they were much more difficult to track and tax, making them friendlier to local merchants than to the imperial government.

This competition between contraband and re-exportation reveals a very clear economic dichotomy between the metropole and Caribbean colonies. From a colonial perspective, re-exportation simply put no money in the hands of British colonists. It was a trade controlled by Europe that delivered goods to Spanish colonies and returned the proceeds to the metropolises. Contraband, on the other hand, provided a highly profitable method of exchanging essential goods between imperial borders while facilitating the region-building social interactions covered in the previous section. In addition to this relatively stable flow of goods, these networks benefitted massively from Anglo-Spanish conflict because they allowed for a greater degree of legal interaction (largely through privateering), allowing local parties to both establish new trade routes and expand already existing ones. On the other hand, the British metropole viewed this trade as a clear subordinate to the more stable (and much more profitable) re-export route. Using this Spanish-based trade system relied heavily on the peace that the contraband trade both actively (through lobbying) and passively sought to destroy. In addition, an increase in contraband directly affected the profits of these European shipments because it increased the availability of the otherwise difficult-to-get goods that were being shipped from England. This

¹¹⁸ Pearce, *British Trade with Spanish America*, 6,9,16, 25, 32.

¹¹⁹ *Ibid.*, 32.

direct competition reveals that while Britain's metropole and its Caribbean colonies were ostensibly under the same political umbrella, their respective economic realities were so disparate that they were often in direct competition.

More direct examples of privateering's separating effects can be found in the Naval Prize Act of 1740. The second provision of this act stipulated that captors were required to provide the court with "all papers and writing which shall have been found taken in or with such capture."¹²⁰ The set of instructions sent soon before this act's official passage better enumerated these "papers and writings" as "Passes, Sea Briefs, Charter-Parties, Bills of Lading, Cockets, Letters and other Documents and Writings."¹²¹ This requirement was made so that vice-admiralty courts could better determine the national identity and purpose of ships brought in for adjudication based on the contents and language of such documents.

The main question in assessing the legality of a prize capture was the national character of the ship. Such vessels could only be legally condemned if they were found to be in the service of an enemy state, while neutral and ally vessels were either released or subject to laws covering salvage. However, by the latter half of the 1700s making determinations about a crew's national allegiances was becoming increasingly difficult. Official paperwork was easy to fake and was often lost or destroyed, and it was rather common for ships to fly false flags to "pretend to be neutral."¹²² The traditional solution to this conundrum would be for privateersmen to simply observe what language was spoken aboard the captured ship. However, due to the emergence of

¹²⁰ 13 Geo. II, 1740, c. 4, 362.

¹²¹ "Instructions of George II," 349.

¹²² "On the Practice of Prize Causes," in *Notes on the Principles and Practice of Prize Courts*, ed. Frederic Thomas Pratt, 17-126 (London: William Benning & Co., 1854), 36.

new nations in the region, this identification through language became far less reliable.¹²³

Additionally, as a result of the contraband networks that freer trade allowed, privateers were sometimes capturing ships of allied nations engaged in illicit trade with a hostile empire (e.g., an American vessel carrying goods to French colonies).¹²⁴

To combat the waning efficacy of this tactic, privateers began to rely on the written rather than spoken word aboard these vessels. As mentioned earlier, official documentation was of little to no use. Instead, these sailors were searching for letters, a cargo effectively ubiquitous at the time.¹²⁵ These correspondences clued captors into both national character (through language) and a ship's specific goals. For example, the American ship, the *Ravens*, was held up for a search during the Seven Years' War during which a letter was found revealing their intentions to trade illegally with the French, thus condemning the cargo's capture.¹²⁶ A similar case can be found in the *Minerva*, an American vessel whose official paperwork was completely in order. After being stopped and searched by a roaming privateer, a letter was found revealing illicit trade with enemy subjects.¹²⁷

Privateers and prize courts would use various methods to analyze the epistolary evidence found aboard suspect ships. The most straight-forward of these was identifying the language in which the discovered correspondence was written. This was not necessarily enough evidence to condemn a ship's cargo, but it gave privateers the necessary degree of suspicion to bring the captured vessel back to court for the more capable prize courts to decipher such letters'

¹²³ Nathan Perl-Rosenthal, "Reading Cargoes: Letters and the problem of Nationality in the Age of Privateering." In *A World at Sea*, ed. Lauren Benton and Nathan Perl-Rosenthal, 75-88 (Philadelphia: University of Pennsylvania Press, 2020), 78.

¹²⁴ *Ibid.*, 79.

¹²⁵ *Ibid.*, 75.

¹²⁶ *Ibid.*, 79.

¹²⁷ *Ibid.*, 79.

meanings. Sailors of the region were well aware of the threat that carrying letters in a foreign language posed. In the example of the American *Molly*, a passenger was forced to destroy their letters because they were written in French. The captain had told her that “those Letters would be enough to cause them to be taken by the English.”¹²⁸ Another example is that of the *Nancy*. After being captured by a British privateer, the captain (David Florence) admitted that he had thrown “several Letters” overboard because he was worried that the capturing privateers “had no Linguist on board... and that, as they were French Letters, it would be the Cause of carrying them into some Port, and detaining them.”¹²⁹

These suspicious correspondences gave privateers the justification they needed to bring such vessels to court where vice-admiralty judges would engage in more exacting investigation (such as actually translating the letters, observing epistolary conventions to determine the letters’ purpose, and determining the intentions suggested by such letters).¹³⁰ What is most important about this practice of interrupting correspondence is not the specifics of how such letters were investigated, but rather the fact that such letters were heavily targeted in these investigations. As mentioned, this would often lead otherwise neutral vessels to destroy whatever letters they had on board that were in any suspect language. This effectively meant that in times of war (when the Caribbean was already more isolated from Europe as a result of blockages and military interference with shipping) privateers aggressively frustrated communication efforts. This would certainly delay communications from within the region, but these effects would be greatly magnified for correspondence both to and from Europe.

¹²⁸ Perl-Rosenthal, 80.

¹²⁹ *Ibid.*, 81.

¹³⁰ *Ibid.*, 82-86.

This practice shows how privateering, similar to the role it played in regional economic development, was placed in a position to interfere with European influence over the region. Along with its role in the economy, it is difficult to argue that either of these practices present an intentional, pointed desire to interfere with the control of imperial metropolises over the region. Instead, they are examples of how privateering was constructed in a way that served to maximize local profits above all else, while incidentally working against European influence. Economically, privateering existed in a context that was directly harmful to European profits while expanding the contraband networks which would compete with re-exportation during times of peace. Socially, it interfered with the communications both coming from abroad and within the region, effectively increasing the importance of these mobile, inter-connected sailors in spreading the information which led to the region's creation. After the turn of the century, however, privateers would take a much more active role in dispelling direct European influence.

The Prize Courts Act of 1801 marked the beginning of the end of the use of privateering by European empires. While privateering would maintain a degree of popularity among imperial powers until the end of the Napoleonic Wars (1815), it would experience relatively little use by said polities until its official criminalization by the Declaration of Paris in 1856.¹³¹ The use of privateers fell out of favor due to a combination of the growing strength and professionalization of official navies as well as growing free trade policies increasing the profitability of formalized, legal economic interactions.¹³² However, as European powers began to move away from letters

¹³¹ "Declaration Respecting Maritime Law. Paris, 16 April 1856," International Committee of the Red Cross, Accessed March 11, 2022, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=473FCB0F41DCC63BC12563CD0051492D>.

¹³² Henning Hillmann and Christina Gathmann, "Overseas Trade and the Decline of Privateering," *The Journal of Economic History* 71, no. 3 (2011), 731.

of marque, they became a necessary tool of the burgeoning states that started appearing across the region.

As was noted in the *Bermuda Gazette* in 1819, “It seems to be a rule in commencing a patriotic revolution in any part of Spanish America that the establishment of a Court of Admiralty must be among the first acts.”¹³³ While the tone of this comment skews more towards jeering disapproval than astute political commentary, the reality it reveals is clear. Latin American declarations of independence were very often accompanied by the offer of letters of marque. This was a savvy policy decision both financially and politically for these independent states. Privateering had always been an incredibly high-reward, low-risk prospect for those issuing letters of marque. They were able to enlist a naval force at no cost which could be used to both protect one’s own territory while weakening a rival’s. In addition, these countries could reap the profits of the taxes they levied against condemned prizes. Privateering also provided these polities an opportunity to assert their nation’s legitimacy in the eyes of more established countries’ legal systems. While some new states’ sovereignty was recognized through their letters of marque (such as Mexico, Gran Colombia, and the Provinces of Río de la Plata in an 1825 declaration by the British) others were challenged.¹³⁴ For example, the United States Supreme Court decided in 1820 that it would not recognize the letters of marque issued by Louis-Michel Aury’s (a Caribbean privateer who served under a number of governments before engaging in multiple attempts to establish republics in the region) government on Amelia Island, stating that said privateers belong to “no nation or State,” thus making them pirates.¹³⁵

¹³³ Vanessa Mongey, *Rogue Revolutionaries*, (Philadelphia: University of Pennsylvania Press, 2020), 28.

¹³⁴ Mulich, *Sea of Empires*, 86.

¹³⁵ Edward G. White, “The Marshall Court and International Law: The Piracy Cases.” *The American Journal of International Law* 83, no. 4 (1989), 732.

In addition to allowing states a proving ground for their legitimacy, privateers were often active advocates for their new countries and the republican ideas they were founded upon. This was done through the dissemination of printed materials to ports across the Caribbean as well as through the ephemeral network of spoken word information that border-crossing privateers were always at the center of. The printed information that these sailors spread ranged from invitations for foreign sailors to join these young republics to more comprehensive, multilingual pamphlets championing the values of republican political thought.¹³⁶ Some of these sailors, such as the aforementioned Louis-Michel Aury, even stretched the interpretation of his letter of marque from the Republic of Mexico to the point where he was seizing land (Galveston Island) in the name of these revolutionary values.¹³⁷

The emergence of these new republics created an interesting situation for privateers of the region. While some of the raiders that these countries employed came from within their borders, many didn't. In fact, there are examples of governments giving out letters of marque to crews that had never even stepped foot in their country.¹³⁸ Herein lies the conundrum that this political overturn created. Privateers were granted legal access to letters of marque of neutral countries, a practice previously outlawed.¹³⁹ Whether due to this law's antiquity (being well over a century old by the early 1800s) or through the laissez-faire approach to regulating privateering characteristic to the region, these sailors were now in the direct service of foreign governments. This allowed privateers to fully realize and outwardly reveal the trans-imperial space that had been slowly built throughout the eighteenth-century.

¹³⁶ Mongey, 32, 39.

¹³⁷ *Ibid.*, 16.

¹³⁸ Mulich, 89.

¹³⁹ Coakley, "The Piracies of Some Little Privateers."

Crews made up of French, Irish, and Creole sailors were cruising under the flag of the Republic of Buenos Aires attacking Spanish ships while allegedly being backed by money from a Danish company from the island of St. Thomas.¹⁴⁰ While diverse crews had been a regular occurrence for quite a while due to competition for sailors, a ship's national identity could traditionally be indicated by the highest-ranking official being a subject of the imperial government that issued their letter of marque. However, due to the circumstances of this period, crews no longer had any clear indication of national identity, they could truly "don and doff national affiliation as easily as their tunic."¹⁴¹ Through the licenses of these new states, privateers were able to brandish the regional connections that their profession had built over the past 100 years while (often unintentionally) working to expel European influence in the region.

Privateering's role in separating the trans-imperial Caribbean from Europe was quiet and frankly incidental in the 1700s. The business of privateering helped to build and maintain an economic system that, while necessary for the subsistence of local colonists, directly opposed and competed with the greater economic interests of imperial planners. Additionally, aspects of the legal code that these sailors worked within helped to isolate the region from European communication during times of war. After the turn of the century, however, these privateers' role in European opposition became much louder. With revolutionary states freely issuing letters of marque, privateers became both outwardly and unintentionally complicit in the spread of the republican influence and political thought which would eventually break down the European imperial influences that had defined the region for so long.

¹⁴⁰ Mulich, 88-89.

¹⁴¹ Matthew Taylor Raffety, "'The Law Is the Lord of the Sea': Maritime Law as Global Maritime History." In *A World at Sea*, ed. Lauren Benton and Nathan Perl-Rosenthal, 53-73 (Philadelphia: University of Pennsylvania Press, 2020), 60.

Conclusion

While licensed private raiding had roots running back to the time of the crusades, it was not until its development in the seventeenth and eighteenth-century Caribbean that the practice would become known as “privateering.” This etymological change was accompanied by a legal restructuring that shifted power of the practice to New World vice-admiralty courts, more clearly defined each step of the prize adjudication process, and helped establish privateering as a legitimate war-time industry as opposed to the irregular, often semi-legal form it held in the past.

This new legal framework was first laid out during the War of Spanish Succession in the 1708 American Act. This legislation served as the template for all future decrees legalizing privateering and laid the groundwork for prize courts to begin to establish themselves across the Caribbean. However, due to the extended period of peace that came after this conflict, further development of privateering and prize law would have to wait until the War of Jenkins’ Ear.

It was during this 1739 conflict that privateering was able to truly flourish in the region, becoming a major local economic institution rather than simply a tool to bolster imperial naval strength. This shift was due to provisions of the 1740 Prize Act and a set of instructions from George II which made prize adjudication incredibly economically favorable towards privateers by leaving their profits untaxed. This legislative shift combined with popular fervor resulting from years of perceived Spanish aggression created the perfect storm for privateering to explode in popularity. Private raiding’s lucrateness and widespread appeal placed vice-admiralty judges, the gatekeepers of these prizes’ wealth, in a position of extreme power. They used this

opportunity to further expand their autonomy and role in their local economies by actively advertising their willingness to bend rules to draw in more privateers and, thus, enrich their colony.

Privateering continued developing and expanding throughout the century thanks to the frequent, relatively long-lasting wars that characterized this period (mainly the Seven Years War (1756-1763), the American Revolution (1775-1783), and wars relating to the French Revolution throughout the 1790s and early 1800s). This climate allowed privateering to evolve from a means of local economic enrichment to a facilitator of social and commercial connections throughout the greater Caribbean. A prime example of this was the practice of *rescates* which put privateering at the center of a legal, trans-imperial system of trade, the likes of which was not even possible in times of peace until later in the 1700s. Similarly, the system of prisoner exchange that prize law required enabled a degree of exposure and connection to foreign colonies that would otherwise have been difficult for merchants to legally achieve. This otherwise impossible degree of interaction also allowed for the maintenance and proliferation of contraband trade channels that defined and sustained the region during times of peace, thus allowing for privateering's influence to be felt even after these conflicts subsided.

It is through these factors of inter-imperial connection that privateering's role in the creation of the trans-imperial Caribbean can be seen. Through both the laws that defined their practice and the unlawful behaviors said laws gave birth to, privateers were constantly (though usually inadvertently) working to break down the social and economic barriers that imperial borders in the region presented.

By the end of the century, as European powers started to turn away from letters of marque, these privateers became crucial agents of independence and European expulsion. These

raiders served to bolster both the legitimacy and military prowess of burgeoning republics, much in the same way they were used by European empires to establish colonies centuries before. In this new context, crews were able to fully reveal the connections that had been built throughout the period, combining the privateering resources of previously disparate colonies under the flag of these new countries. While many of these sailors continued their raids purely for economic gain, some (such as Louis-Michel Aury) took calls for independence and actively sought to drive European powers out of the Caribbean.

This combination of regional connection and eventual European expulsion defines the role of privateering in the creation of the trans-imperial Caribbean. By providing an avenue for legal economic and social connection during times of war, privateering allowed for the movement of people and information that entirely contradicts the strict imperial borders that have been imposed upon the region by traditional scholarship. These raiders then brandished their connections during the early nineteenth-century while helping to establish the region's emerging independent states.

Privateering has traditionally been studied as either merely auxiliary to greater forces in the region or in such specific detail that its greater importance tends to be lost. For the reasons stated above, I believe that (starting with the War of Jenkins' Ear) privateering served as a principal agent of regional change and connection that tied together many of the period's most important historical forces. Studying the Caribbean through the lens of private raiding allows one to experience a confluence of imperial decree, local resistance, contraband, free trade, slavery, national desire, et cetera that few other institutions allow. As such, privateering should be viewed more seriously in the greater historical study of this time and place.

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