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E M M A H A R T

## “NATURALLY CUT OUT . . . FOR UNLAWFUL TRADE”: ECONOMIC CULTURE AND THE ENFORCEMENT OF THE 1696 NAVIGATION ACT IN THE MAINLAND COLONIES

In 1695, roving official Edward Randolph drew up a definitive list of issues he considered responsible for the persistence of “illegal” trade in the mainland British North American colonies. This “Account of several things”—which, among other problems, highlighted the prevalence of corrupt customs officers, the use of “obscure” creeks to illegally load boats, and the lack of interest among governors in fixing these problems—proved to be the primary stimulus to action by London rulers, who passed the 1696 Navigation Act the following April.<sup>1</sup> They intended that this act would put an end to the smuggling that was endemic to most of the young English mainland colonies despite the adoption of other navigation acts in the 1660s and 1672. Colonial Vice-Admiralty courts were instituted to prosecute contraventions of the navigation acts, and those charged with enforcing the acts had to give oaths and put up bonds. The act of frauds was extended to give customs officers stronger search powers to strong-arm settlers into paying their duties and trading only to England in English ships with mainly English crews.<sup>2</sup>

To scholars interested in the development of England’s (and then Britain’s) imperial superstructure, this late seventeenth-century clamp-down on piracy and the creation of a full-fledged colonial customs service is an important moment in the story of how the metropolitan administration sought to order the haphazard origins of North American possessions. Yet the act remains less well known than either the legislation adopted a generation earlier or the later conflicts over enforcement leading up to the American Revolution.<sup>3</sup>

Recently, though, historians have approached the issue of the 1696 Navigation Act and its associated mercantilist ideology with renewed vigor. Whereas older, Whiggish narratives related a straightforward tale of the rise and progress of mercantilism that rested on the foundation of the acts, scholars’ reengagement with the topic stems from a conviction

that retelling the development of colonial administration from fresh angles could yield useful insights into the political economy of the early modern English state. Perry Gauci has observed that “economy politics drove policy far more than conceptions of political economy,” a comment that embodies the growing sense that laws like the 1696 Navigation Act were less a product of a government attempting to create a “system” that would enrich an embryonic nation-state than a function of which particular political interest group had managed to win the day.<sup>4</sup> Likewise, Steve Pincus, in his recent call to rethink mercantilism, argues that London politicians rarely agreed about how the political economy of empire should function, the result being that there was little consensus at the center as to whether the periphery should be locked into the mercantilist system inherent in the navigation acts.<sup>5</sup>

While this fresh approach to political economy takes account of a wider range of economic thinking at the center of the empire, it fails to address the role of the colonists who were at the receiving end of the London legislation and who were (along with exogenous influences like war) also a crucial factor when it came to determining whether a statute once on the books could actually be enforced. And, without enforcement, economic thinking would remain just that—ideas of a few leading thinkers. Indeed, it is on this point that Cathy Matson has responded to Pincus’s analysis by arguing for “a commitment to recovering all of the ideological alternatives that were available to people who were thinking about the economy throughout the British Empire.”<sup>6</sup> Some scholars have begun to address this issue by looking at why colonists, in a variety of places at the end of the seventeenth century, might have been motivated by their own personal situations to join the mercantilist crusade that was embodied by the 1696 Navigation Act. Virginia planters supported the tobacco convoy system because they understood that it would bestow them with a lucrative monopoly on the trade of their staple; a commercial elite with Caribbean interests supported Crown policy initiatives to protect their own rent-seeking activities; and colonial assemblies turned against pirates when they realized that it was only with the British authorities on their side that they might fend off the twin threats posed by the Spanish and the Indians.<sup>7</sup>

Not everyone, however, supported Edward Randolph and his campaign to bring traders to heel. With a view to arriving at a more nuanced understanding of economic practice and culture in the mainland colonies at this time, this essay examines why the Navigation Act of 1696 failed to produce widespread cooperation. Most especially, I want to put colonial

circumstances in the spotlight by suggesting that particular characteristics of early settler society extracted colonists from the customary web of economic interests that might have made them more receptive to the legislation. The regulations of the 1696 act failed to stick, in part, because many trading colonists did not share the economic interests of those at the imperial center. At the same time, metropolitan officials made a difficult task harder by viewing colonists as an enemy party while failing to master the geographical particularities of a growing empire.<sup>8</sup> These difficulties complicate the monolith of mercantilism, which found its success as a system despite the failure to enforce regulations from the start in the colonial mainland as well as the Caribbean. Likewise, a more nuanced understanding adds complexity to the contribution of colonists to the creation of an Atlantic economy, offering an interpretation that sees them as something other than nascent planters or parsimonious Puritans.<sup>9</sup> The navigation acts were contingent because imperial officials lacked the resources to implement them satisfactorily, because metropolitan merchants cooperated only when it was in their financial interest to do so, and because the acts were not compatible with the emerging economic culture of these young, maritime communities. What is more, this was an economic culture that—unchecked by the 1696 act—was allowed to evolve and become more elaborate long after the British gave up trying to crack down on the economic activities of mainland colonists in the 1720s.

### *The Impact of the Navigation Acts on Colonial Trading Practices*

Measuring the success or failure of the 1696 Navigation Act in the mainland colonies is a difficult—perhaps even impossible—task. Most obviously, there is no way of determining the proportion of traded goods that were smuggled. We can also question the value of such an exercise when, regardless of how much smuggling was going on, trade nevertheless increased under the auspices of the acts.<sup>10</sup> While there were officials on the ground who were hard at work attempting to enforce the letter of the law, their task was made difficult by the lack of support from a metropole preoccupied with war and a changeable government unwilling to throw either money or resources behind the 1696 act. I would argue that exploring the degree to which those charged with enforcing the 1696 measures felt them to be a success can provide a useful insight into the impact the legislation had on existing colonial trading practices and institutions.

The act was created to regularize colonial trading activity and to ensure it conformed to metropolitan ideals of economic practice, but did it

in fact achieve these ambitions? The 1696 legislation sought to accomplish three goals: first, to create a well-qualified and honest colonial officialdom that would fully cooperate with London and ably assist in efforts to ensure that duties were paid and trade occurred only between England and the colonies; second, to enlist the cooperation of the colonial governments so that they would not create laws that might contravene those relating to trade promulgated in the metropole; and third, to establish colonial Vice-Admiralty courts as independent legal bodies that could successfully prosecute illegal traders.<sup>11</sup>

These measures were not totally ineffective. More customs officials were appointed, and the turn of the century saw the creation of an actual colonial customs service, where previously there had been only a few haphazardly placed persons charged with enforcing the rules of trade.<sup>12</sup> Martin Bladen's lengthy 1721 report on the state of the colonies enumerated how in South Carolina "the commissioners of the Customs have a Surveyor General, a Collector, a Comptroller, a searcher, a Waiter, and a Naval Officer to put the Laws of Trade and Navigation in execution."<sup>13</sup> The act resulted in the creation of "model" colonies that could legitimately be held up as success stories—Virginia being the most obvious example, especially with the continuance of its convoy system until the end of the War of the Spanish Succession. No complaints were lodged against this colony in Bladen's report, as such governors as Francis Nicholson and Alexander Spotswood had conscientiously pursued an ardent desire to regularize the transatlantic trade from their colony. Their efforts were acknowledged in 1702 by customs agent Robert Quary, who described their "extraordinary diligence."<sup>14</sup> Governor Richard Coote, the Earl of Bellomont, struggled to bring recalcitrant New York merchants under control, and in 1709 the governor of Carolina claimed, "All possible precautions are taken by this Government to prevent illegal trade, the Acts of Trade and Navigation being strictly enforced on all occasions."<sup>15</sup>

Other evidence, however, would suggest that governors were often economical with the truth in an effort to keep London officials at bay, especially in proprietary colonies where relations with the center were troubled. In Carolina, the important frontier settlement of Port Royal remained without customs officers until the second decade of the eighteenth century; the result, a petitioner wrote, was that "nothing is more Easie than putting in there . . . and unlading such goods as are prohibited by the Laws of Navigation." All Carolinians knew, explained the writer,

how easie it is to put into Port Royall under the notion of a Storm or a Leak have a fair Opportunity and temptation of purchasing prohibited french goods from Curassoe in a market abounding with European commodities very proper for Carolina as powder Bullitts, Bonds, firelocks etc for the Indians, Dutch . . . Linnens and Hollands of all Sorts, Muslins, Callicoes & East India ware.<sup>16</sup>

Newly appointed, and newly enthusiastic, surveyor and searcher Richard Wigg still found plenty of smuggling activity around Port Royal following the granting of his commission, so much so that he appeared before the local court three times in the second half of 1714 to bring to account the illegal traders of logwood from the Bay of Campeachy, brasiletto wood to Curaçao, and “foreign brandy” to Carolina.<sup>17</sup>

Indeed, instances abounded from other colonies of inadequate customs provision, truculent governors, and uncooperative colonial governments unchecked by the London authorities, who were preoccupied with fighting the War of the Spanish Succession. A case in point might be the situation that Bellomont faced during his short tenure as governor of New York in the immediate aftermath of the 1696 act. On arrival in 1698, two years after his official appointment, Bellomont discovered that his predecessor, Governor Benjamin Fletcher, had supported rampant smuggling and created a regime fully invested in ensuring that it continued to the benefit of those in charge. “The carelessness and corruption of the Customs and Revenue Officers,” Bellomont explained,

have for some years past been such that though the trade of this place is four times as great as formerly . . . yet the revenue from Customs has decreased by one half from what it was ten years ago; and the merchants have been so used to unlawful trade that they were almost ready to mutiny on some seizures that I caused to be made.<sup>18</sup>

Bellomont’s efforts to turn the situation around were met by merchants who “daily curse and threaten the few persons that have assisted me in the King’s service,” so that Bellomont was left with no locals who would help him enforce the 1696 act.<sup>19</sup> When Bellomont’s tenure as governor ended with his death in 1701, New York was no closer to a completely

legal trade than it had been six years earlier, leaving imperial official George Clarke still “impatient” in 1705 for the news of Pennsylvania’s “surrender” to the regulatory authorities in the hope that this would encourage Rhode Island, Connecticut, and, hence, New York to follow.<sup>20</sup>

With upstanding customs officials and cooperative colonial governments thin on the ground, it is hardly surprising that the Vice-Admiralty courts failed to offer the impartial adjudication that the Board of Trade was seeking. Colonists were good at giving the impression that they supported London’s new instruments of enforcement by passing legislation against illegal trade. In 1698 the Quaker colony passed “An act for preventing frauds & regulating abuses in trade,” and a 1699 act provided for “the better and more speedy execution of justice” for those brought to court on charges of piracy. The reality, however, was more complex. Ruling councils infuriated the Board of Trade by appearing to follow the spirit of the 1696 Navigation Act but disobeying it in practice.<sup>21</sup> Much objectionable behavior centered on the controversial clause in the statute that gave colonial Vice-Admiralty courts the power to enforce the navigation laws—a power they did not possess in the mother country.<sup>22</sup> Pennsylvania’s 1698 legislation negated this authority by including the “disagreeable clause in Law” that the Vice-Admiralty judge had to be assisted in dispensing justice by a jury of Pennsylvanians, whose presence was to be “taken for Graunted to be the way of Justice in all cases relating to forbidden Trade, which, wth the Fundamentall Laws of England, strictly copyed by us into ours there.”<sup>23</sup> Meanwhile, the Carolinians did not bother with formal legislation but set up their own court with a jury and used corruption to undermine the independent authority of the Vice-Admiralty judge. Governor Joseph Blake, in league with Justice Joseph Morton, charged ships with transgressing the navigation acts but allowed them to pay their way out of prosecution before the cases went to court.<sup>24</sup> Rhode Island, a notorious pirates’ nest until the 1720s, joined in. Writing to Whitehall in the spring of 1705, agent William Popple, in a “Charge exhibited against the Proceedings of the Chartered Government of Rhode Island,” stated that “the government does not observe the Acts of Trade and Navigation, but countenances the violation thereof by permitting and encouraging of illegal trade” while also refusing “to submit to HM and HRH Commissions of Vice-Admiralty.” Lord Cornbury complained from a still-recalcitrant New York in the summer of the same year about naval officer Mr. Byerly, who successfully tried smuggling cases in the Vice-Admiralty court but then proceeded to take “ye goods into his own custody and sold them for his owne use, for he has not given

the Queen credit in his accots for her.”<sup>25</sup> As these examples clearly show, customs officials were not upstanding, colonial governments were not cooperative, and Vice-Admiralty courts were not an independent and effective means of convicting illegal traders.

Such reports made dismal reading for a Board of Trade charged with overseeing colonial commerce, and the general sense that there was little enforcement of the navigation laws was confirmed by two reports in the early eighteenth century: an inquiry in the trade with Curaçao and St. Thomas and Martin Bladen’s 1721 overview of the colonial situation. Sent out “to the Governors and Proprietors of Plantations” in January 1710, a circular letter explained how,

[H]aving received information that a clandestine and illegal trade has and still continues to be carryed on by several persons . . . under your Government to Curacao and St Thomas . . . we send you an extract of such information that you may make strick enquiry into the truth of the several matters of fact alledged therein.

The responses of numerous governors, along with the enclosures outlining the relevant evidence, suggest that the Board of Trade had not been wrong in its suspicions.<sup>26</sup> Indeed, the ongoing links between Curaçao and other Dutch Caribbean Islands, such as St. Eustatius, would suggest that the trading links that endured these efforts by the Board of Trade went from strength to strength in the course of the eighteenth century.<sup>27</sup>

Continuing the theme of evasion and smuggling, Bladen’s 1721 report on the state of the colonies duly noted that “daily experience shews that illegal trade is not to be prevented in a Proprietary Government” and that

certain Proprietors . . . have broken thro’ the laws of Trade and Navigation, made laws of their own contrary to those of Great Britain, given shelter to pirates and outlaws, and refuse to contribute to the defence of the nei’bouring Colonies under your Majesty’s immediate government.

Although “not all [are] equally involved in this charge,” wrote Bladen, the problem would not be fixed until the modes of government in the colonies had been regularized.<sup>28</sup> Still, the failure to do this at the time of

the 1696 act, along with the blocking by Parliament of the 1702 Reunification Bill that had sought to centralize colonial government, meant that most of what the 1696 act had set out to accomplish was still not in place some twenty-five years later, particularly in Britain's proprietary colonies, which at this time still constituted more than half of the total on the mainland. The navigation acts had overseen a massive increase in the value of trade between Britain and its colonies, but a decrease in the power of the monarch after the Glorious Revolution, the delegation of that power to merchant-lobbyists, and the exigencies of war meant that these gains were accompanied by an ongoing and chronic evasion of the acts in the mainland colonies and the Caribbean, despite the best efforts of such men as Randolph and Quarry.<sup>29</sup>

### *The Problem of Conflicting Interests*

So why did the effort to bring colonial traders into line with the navigation acts prove so problematic? I would argue that historians (often assuming free trade to be a default choice) have too readily accepted that colonists would evade efforts to control their trade when, as recent research has made clear, there were plenty of reasons to throw one's lot in with the English authorities. Not everyone agreed that merchants should have the freedom to trade across national borders. And in times of war, some would cooperate with the state in its efforts to regulate commerce.<sup>30</sup> It is therefore worthwhile to look more closely at the mainland colonies to uncover what it was about the state of affairs there that made so many traders resist the efforts of English governors, customs officials, and Vice-Admiralty officers. Reflecting on the circumstances that prompted continued smuggling can provide insights into the particular trading cultures that were evolving in the colonies at this formative stage of settlement.

A good place to start such a discussion is in the realm of interests. As historians now question the all-encompassing character of mercantilism, they have also started to recognize that much discussion about the early modern economy in the English Atlantic was conducted in the language of interests. To this end, Perry Gauci has argued that scholars should look more closely at "the alignment of interest in public debates on regulation, both within Britain and its empire."<sup>31</sup> Interests came in a number of forms—not only of such groups as the Royal African Company and merchant-lobbyists but also of individuals seeking to advance particular agendas. However, not all interests were created equal. Corporate interests, the public interest, and the king's interest were viewed as legitimate, whereas private interest was looked on positively only when it



might be interpreted (however loosely) as actually being channeled toward the public good.<sup>32</sup> In the case of the enforcement of the navigation acts in the English mainland colonies, loyal Crown officials identified the triumph of colonial private interests (proprietary interests being included in this category) over the king's interest as being a principal barrier to ending illegal trade. Hence, in 1697, Governor Nicholson wrote of customs officials whose "private interest should oversway their duty" and of Maryland traders governed by "the cursed thing called self-interest." Meanwhile, from the northerly reaches of England's young colonies, New Hampshire proprietor Samuel Allen described the inhabitants he found there in 1702 as "a considerable trading people wholly governed by their own private interest."<sup>33</sup> The crux of the matter was that colonists paid little heed to royal authority and instead would "always prefer private gain to the general good of the English Nation."<sup>34</sup>

Unsurprisingly, English officials tended to view the situation in straightforward terms of who was with them and who was against them. The reality was more complex. Colonial interests who refused to work in the king's interest were diverse, and their reasons for noncooperation equally so. By looking more closely at these colonial interests, we can begin to understand their character, their role in stymying the ambitions of the 1696 act, and, hence, their ongoing importance. These interests can be grouped into two categories: the proprietary colonies and those who were appointed to the new colonial customs service and the colonial communities of which they were members. One major reason the 1696 act proved so hard to implement was that neither of these colonial interests found it to be in *their* interest to cooperate with the king's interest.

Let us turn initially to the issue of proprietorial interest, which was essential to the English colonizing enterprise during the Stuart era but was looked upon less favorably following the Glorious Revolution of 1688. Imperial officials believed that the proprietors themselves were trying to protect their little empires and therefore had blocked the successful implementation of the navigation acts. This was only partly true. Proprietors were indeed lukewarm to the king's interest and often sought to protect their own power, yet they were also defending their interests against truculent proprietor-governing assemblies. Ultimately, then, these assemblies managed to promote their interest in smuggling despite the efforts of proprietors and imperial officials and thereby blocked the exertions of such men as Randolph and Quarry.

The first way in which assemblies triumphed over mercantilist policies was through their aforementioned habit of completely undermining

the newly established Vice-Admiralty courts. From Boston to Charleston, proprietary councils established their own courts, made English naval officers reliant on juries they had selected for judgment, or simply ignored the authority of the British court. In part, these actions were made possible because proprietors remained uninterested in appointing governors who were willing to act in the king's interest. In a 1696 report to the commissioner of the customs, Edward Randolph noted that, "yet the Governors and other officers in the Proprietary Colonies are continued in their places and no care is taken to appoint others in their stead, though they maintain and support illegal traders as much as ever."<sup>35</sup> This situation was even more perilous because a failure to clarify whether proprietary governors had the right to enforce the navigation acts led to the governors' insistence that they did have this power, and of course they used it to appoint allies who helped them to continue illegal trade.<sup>36</sup> Furthermore, when men loyal to the king entered office, they were often quickly thrown out again by the machinations of an opposing faction. Robert Quarry observed just this situation in Carolina in 1702, when the government

turned out Mr Trott, who had given security to the Commissioners of the Customs, and had their Commission to be Naval Officer at that Port, and have put in a man who hath spent all his time in carrying on illegal trade, in which he is still concerned, however, he is fit for their purpose.<sup>37</sup>

According to a 1718 report from Carolina, little had changed some sixteen years later, with the assembly enforcing a 10 percent duty on all imported British manufactures and making "severall . . . laws very prejudiciall to trade . . . purely, because they will not tax their own estates." Now, settlers would buy cheaper, untaxed, smuggled goods from Holland and Portugal, rather than paying the heavily taxed prices for legal British imports, which would surely suffer a dip in demand.<sup>38</sup>

Some proprietors did respond to prods from the imperial center by strongly reminding their governments to take note of the rules of trade. Yet, in the face of this chronic disobedience by their colonial councils, these efforts were not overly effective. On more than one occasion, Carolina's Lords Proprietors exhorted their governor in the strongest terms to enforce the rules of transatlantic commerce. In 1685, instructions to Joseph Moreton firmly advised him to

take Especiall care that the Acts of Trade & Navigation be observed . . . And if any Ships doe presume to Land any Goods contrary to these Acts You our governour are not to faile to cause the same to be Seized According to the said Acts Which Acts we formerly sent to Mr John More bound up in ye Book of Rates to be kept in ye Secretaryes Office for your Information.

And, in 1709, Lord Sunderland set off for the governorship of the colony with a twenty-five-point transcription of the Navigation Act to ensure that he fully understood the terms of trade.<sup>39</sup> In an attempt to better ensure respect of the king's interest in the payment of customs duties, William Penn went as far as appointing a number of water bailiffs to watch over the coastal areas of his colony and try to prevent smuggling.<sup>40</sup>

The amount of effort the proprietors of such colonies as Rhode Island, Carolina, and Pennsylvania made to enforce the terms of the 1696 act is unclear. But even if the proprietors tried, it seems that they could not control the political factions of their governments from thousands of miles away, especially when these governments were determined to act in the interest of personal profit or a profitable colonial project. Indeed, some commentators observed that those in government had become so used to acting as they pleased that they had begun to feel that trade free from English regulation was their right. In 1702, Quarry informed the Board of Trade that he had taken up the Vice-Admiralty judge's commission reluctantly because he "considered the difficulty that must attend it from a people that had so long practiced illegal trade and found the sweet of it."<sup>41</sup>

These unruly colonial assemblies might have been brought to heel if the newly minted customs service had been effective, but, as we have already glimpsed, this was not the case. Why was it so difficult for imperial officials to bring customs men on side, despite their having given their bond? Evidence suggests that customs officers found it hard not to be influenced by the interests of their local communities; even in royal colonies, they commonly acted not to protect the king's interest but instead their own interest and that of their neighbors. The problem was particularly bad in New York, where Governor Bellomont found "careless or corrupt officers" and could get "little assistance from the council" to appoint impartial replacements "because they are most of them merchants." In Virginia, Benjamin Harrison complained about collector Ralph Wormeley, who "used his interests" to get a ship suspected of illegal trade "released without trial." These irregularities, argued Harrison, "together

with the exorbitant fees charged by officers, have brought Virginian trade to such a pass that it can hardly be carried without a loss."<sup>42</sup> Furthermore, when customs officers tried to operate effectively, their efforts were frequently checked by uncooperative colonial governments. Reiterating the continued disobedience of the Rhode Islanders in 1719, Caleb Heathcote explained how officers were prevented from doing their job properly by poorly maintained defenses and by separate fee schedules devised by the local assembly.<sup>43</sup> Getting customs officers to be physically present in a colony once they had taken up their commissions also proved problematic, as did ensuring that they were actually resident in the port of their appointment. Bellomont complained that two years after officials had received their commission in England, they were still not in place at Boston and New York, and Henry Hartwell reported to London that the Virginia collectors "live at a great distance and trust their duty to unsworn deputies and they to unsworn masters of ships."<sup>44</sup> Finally, even if customs officials avoided all of these issues, their recordkeeping left so much to be desired that they failed to provide any hard evidence of illegal trade. Governor Spotswood of Virginia discovered this in 1711 when, in an attempt to discover whether any commerce with Curaçao and St. Thomas was going on, he observed that "the books of the Custom house officers give no light into the matter."<sup>45</sup>

Indeed, the behavior of colonial customs officials (and possibly William Penn's own correspondence with officer Matthew Birch of Newcastle, Delaware) prompted Penn to speculate that the nature of New World settlement would forever undermine the creation of an effective and honest service. Lacking the "good morrals and character" of their Old World brethren, said Penn, colonial customs officials were unreliable and prone to an overzealousness borne of a desire to make a name for themselves in these young, fluid societies. Thus, concluded Penn, "trade is Crusht in the Budd, & . . . where trade Ceased the revenue cannot encrease." What is more, in the Old World, traders "will bear Stricktness that know the laws, & have often been informed; but in New Colonys, all ways possible should be used to excite & encourage trade, for that is serveing Engd & the King."<sup>46</sup> Even though colonial officers had been made into "established members of the English service" in the wake of the 1696 act, they failed utterly to behave in the same way as their metropolitan brethren. Whether they were too zealous, or too relaxed, the result was that traders resorted to illegal trafficking away from the principal ports. When the Board of Trade fell out of favor in London during the 1720s, the imperial customs service became a target for money-saving measures. The

year 1725 witnessed substantial cutbacks to this already weak service—and thus it was that the interests of colonists trumped the king's interest.<sup>47</sup>

There is one final interest that needs to be discussed: the king's interest itself. With little clout in the years following the Glorious Revolution, the Board of Trade (the official representative of the king's interest in the colonies) not only lacked the resources to bring colonists to heel but also failed to appreciate the physical size of the colonies and the work that would therefore be required to police trade. Appeals to the Board of Trade by concerned individuals in the colonies make it clear that those in the metropole consistently underestimated the task of monitoring the coastline. While Britons had for a while tried to prevent illegal trade along portions of the English, Welsh, and Scottish coastline and countryside, the seemingly limitless forests, rivers, coves, and swamps of the New World demanded surveillance on an unprecedented scale. Penn was all too aware of this problem when he discussed the enforcement of the navigation acts with his government in 1699: "Our navigable Creeks wher smal vessells may Load are many, & not so well known in England as they are to us here," thus "wee cannot expect yr excellies instructions should be so exactly framed, nor any Law in England so made, but there may be some difficulty here to put in execuon every part or Article."<sup>48</sup> Defending his right to appoint water bailiffs, Penn also used the particular geography of his new land to explain colonists' objections to the extensive powers of the Vice-Admiralty. "Our settlements are upon the freshes of navigable Rivers, & creeks, where the River may be . . . two or three miles over, to a stones cast over, & 100 miles form the ocean," explained the proprietor. With so many waterways used by colonists as places of business and trade, the Vice-Admiralty court

pretends not only to try Causes that relate to the Kings revenue, as to unlawfull trade, or Pyracy, but whatever is done in the River {or Creeks,} other ways, as debts for victuals, Bear, Sailes, or any thing relateing to the building of any small Craft; so that they have swallowed up a great part of the Govermt here, because our commerce by reason of the nature of our Settlemts, is so much upon the River & small Creeks of it.<sup>49</sup>

From Penn's point of view, metropolitan officials needed to understand that the scale and geography of the New World made the ordering of trade there incompatible with Old World methods and assumptions.

Penn's estimation of the situation was repeatedly echoed by other colonial rulers. The ever-perceptive Bellomont commented in 1700 that when he viewed the geography of New York and Massachusetts, it was easy to see that "both that country and this are naturally cut out and seated for unlawful trade, both abounding with creeks, and islands and lurking-places for vessels to run their goods in." In particular, Sandy Hook, New Jersey—directly over the water from the Manhattan peninsula—was the dropping-off point for illegal imports from the Caribbean, which would then be "conveyed to York in wood boats etc."<sup>50</sup> Randolph observed that, in Virginia, "every vessel runs a different bay so that it is endless work for a diligent officer to keep an eye on them," while in 1704, a frustrated Penn listened as one of his recalcitrant colonial officials informed him that "there was no other way to prevent" illegal trade "in so wilde a bay and so full of creeks as that of Delaware." What is more, because every colony was studded with smugglers' coves, and at any one time, only a few of the colonies were willing to cooperate with imperial officials in stamping out illegal trade, there was always the possibility of redirecting illicit cargo to a neighboring territory. Governors of Virginia bemoaned the diversion of trade to Maryland, as its "loose government" was willing to "suffer illegal traders." Further north, Randolph noted that Bellomont's efforts in New York would always fail, as merchants would simply "move their trade to Amboy, which is nearer to Sandy Hook than New York, so that it is absolutely necessary for the Jerseys and all the other Proprieties to be just under the King's immediate authority."<sup>51</sup>

Owing to the geography of the colonies, the English would never have been able to monitor the coastline fully, even if war had not tempered their ambitions or if they had thrown endless resources at the problem. Additionally, the failure of the 1702 Reunification Bill, aimed at ending the autonomy of the proprietary colonies—coupled with the inability of the British customs service to stop large-scale smuggling in its native isles, despite being locked in a perpetual arms race with the illegal traders—suggests that circumstances conspired to make an impossible task even harder.<sup>52</sup> To this mountain of problems can be added one final, decisive factor: the unwillingness of London to invest properly in infrastructure to police the colonial coastline. Even though major cuts to the colonial customs service did not begin until 1725, the preceding era had hardly been one of free and willing expenditure. Colonial governors and other officials, mostly Randolph and Quary, repeatedly sent requests to London for additional equipment and men to assist in enforcing the navigation acts. In Virginia, successive governors in a span of fourteen years

recommended the employment of a “small frigate,” “shallops or good boats and hands,” or “a sloop or other small vessell.” The frequency of requests for “vessells” suggests that they were rarely acted upon.<sup>53</sup>

Perhaps the most illustrative instance of metropolitan recalcitrance was the failure to act on a scheme proposed in 1703 by Robert Quarry. In Virginia, vigilant and cooperative governors helped to keep illegal trade to a minimum, but smuggling was also squeezed out by the convoy system that transported the tobacco crop to England in an annual fleet that operated for much of the war-torn 1690s and 1700s. Supported by the encouragement of Lord Cornbury, Governor Nicholson, and the elite planters and wealthy merchants who controlled and benefitted from the convoy, Quarry proposed to the London authorities that, instead of lying at anchor for the winter, the convoy’s ships might instead be used to bring the West Indian trade—the source of a vast amount of illegal activity—under control. Quarry suggested

that no ships be suffered to go from ye Main to the Islands and from thence back but in fleets and under good convoy; that ye Spring Fleet be made up at New York at a day fixed by ye sevl. Govrs., yt. ye convoys be ready to sail at ye day appointed; yt. as soon as ye ships arrive in Barbados, one of ye convoys shall go with ye vessels yt. shall be bound to ye Leeward Islands, and yt. as soon as they are loaden in Barbados, they shall make up ye home fleet at Antego or Nevis, and from thence hasten back to North America, and that the proper method be agreed for ye Jamaica Trade.<sup>54</sup>

Quarry was sure, he wrote, that “this proposal duely persued will efectually secure all ye Trade of America, without putting HM at any expence.” Despite its advertised economy, the proposal did not find favor with those at the center who, for unknown reasons, did not follow through on Quarry’s apparently sensible suggestion.

### *Disobedience, Interests, and Colonial Economic Culture*

Evaluating the interests of those who either resisted or enforced the 1696 act certainly demonstrates that the crumbling of support for the legislation in London was problematic. With economic policy moving more within the remit of Parliament, metropolitan commercial interest groups played an ever-greater role in deciding legislation. The result was a retreat

from tighter regulation of the economy, just at the moment when new infrastructure had theoretically been put in place.<sup>55</sup> Colonial governors and officials demanded attention and support from London, but the will to bolster the 1696 act with further resources was already waning, leaving men like Quarry and his Virginia allies to struggle on alone.

Added pressure came from those in the metropole who were determined to cast the colonists in a subordinate economic role, even though not everyone agreed that this was necessarily the right course of action. Whereas English provincial interests were given a fair hearing by those in London—who viewed them as equal partners in the forging of economic policy—majority opinion deemed the colonial interest to be one that required subjugation rather than equal consideration. Many Whig politicians did argue that the colonies should have the same relationship with the center with regard to decisions about the political economy, as indeed Penn suggested in 1697, when he argued that colonial “trade should be free of the growth of the provinces, as it is in England from county to county, where the laws of Navigation forbid it not.”<sup>56</sup> The relevant imperial officials disagreed, however.

While the outlook and decisions of those in London are undoubtedly important for our understanding of why the navigation acts had such a weak impact on the trading practices of colonists, the colonial situation itself is equally, if not more, significant. First, the character of government in the many proprietary colonies meant that both proprietors and assemblies stood in the way of effective enforcement as they sought to further their interests in the face of each other and the metropole. With these conflicts preventing implementation of the 1696 act in such places as South Carolina and Pennsylvania, more effective governments watched as illegal traders simply relocated to a friendlier regime. Also critical was the failure of colonists who served as customs officials to work effectively in the interest of the monarch they were serving rather than seeking to benefit either themselves or their communities. Finally, the situation was exacerbated by the inability of those in the metropole to appreciate what would be involved in accomplishing their goals in such a vast and watery landscape. Importantly, these themes are echoed in other fields of economic activity during the early phases of European settlement. In this final section, I explore how the disobedience of the colonists with regard to the 1696 Navigation Act was connected to broader trends in evolving economic culture—namely, the absence of institutional direction in the organization of trade, the function of geography in influencing this absence, and the commitment of colonists to economic networks and trading communities of their own creation.



The problems of regulating trade, and the potential for the landscape to frustrate any efforts to do so, were also prevalent in the early decades of the trade with Native Americans. Just as metropolitan officials struggled to bring smugglers to heel, colonial officials wrestled with the problem of recalcitrant Indian traders. Both William Penn and the Carolina Lords Proprietors agreed that trade with Indians needed to be under strict government regulation. Among Penn's initial conditions and concessions for the settlement of Pennsylvania in 1681 was the founder's rule that

There shall be no buying and Selling, be it with the Indians, or One among An Other, of any Goods to be exported, but what shall be performed in Publick Markett when such places shall be sett apart, or erected, where they shall Pass the publick Stamp or Marke, if badd ware and prized as good, and [de]ceitfull in proportions or weights.

Trade with natives, Penn hoped, was to take place in regulated places; the quality of goods was to be closely monitored, as was the fairness of the deal. Such ambitions were to be supported by a plan in which the Free Society of Traders, a joint-stock company endorsed by Penn, would undertake much Indian trade, further assisting its conformance to recognized places and practices of commerce.<sup>57</sup>

Carolina's proprietors, and their colonial supporting faction, were similarly keen to use regulation to order their Indian trade (and their trade in Indians). As early as 1680, the Carolina rulers were instructed to "regulate all disputes in or about Trade or Commerce between the Christians & Indians." Throughout the 1690s, proprietary supporters struggled to get a statute regulating the Indian trade through the obstinate legislature. Getting close in 1698, they managed to set down a set of resolutions on the issue, the first three points of which noted

That ye: Indjan Trade Shall be managed by a Publick Stock for the use of ye publick  
That in ye Bill Care be taken yt ye present Traders have Time to fetch home Their Effects  
That every body may buy Skinns at Their owne Plantations for their owne use from Their Neighbour Indjans.

In terms of trying to prevent private gain and tying down the trade to a specific site that could be regulated, these resolutions were similar to

Penn's ideals. Nevertheless, control of the Indian trade had to wait until 1707, when a statute was finally passed that demanded that all traders buy licenses, put up bonds for good behavior, and become answerable to a board of commissioners created to try abuses.<sup>58</sup>

Just as colonists and officials navigated around the navigation acts, they also evaded attempts to regulate the burgeoning Indian trade. Although some traders were happy to establish an orderly trade that limited the quantities of rum sold to Indians, confined bargaining to agreed-upon storehouses or Indian towns, and did not favor profit over the destabilization of native and white society, many were less willing to conform. As a result, abundant complaints about the "chaos" of the trading relationship continued throughout the period. In Pennsylvania, despite legislation against selling rum to Indians—an early priority of the council—complaints suggest that the numerous laws enacted had only a loose relationship with reality. Appearing before European officials in 1701, Shemekenwhoa, one of the chiefs of the Shawanah Indians,

Solemnly declared & Complained to the Govr that Sylvester Garland had brought to the settlement of Indians of their nation several Anchors of Rum, to the quantity of about 140 Gallons, & that to induce them to receive it & trade with him, he pretended he was sent by ye Govr, and gave one Cask as a present from him, upon wch, being entreated to drink, they were afterwards much abused.<sup>59</sup>

Five years later, free agents were again causing disquiet among the Indians, who had observed that a

John Hans was building a Log house for Trade amongst them, which made us uneasie, & desired to know whether they encouraged it. To which they answered that they did not, and were desired not to suffer any Christians to settle amongst them without the Govrs. leave.<sup>60</sup>

Although the colonial council introduced a licensing system to control traders, this system seems to have had little impact on trader activities. The story was similar—if more extreme—in early Carolina. With the proprietors unable to control the excesses of colonial Indian traders from their distant homes in England, and with many members of the colonial

council so embroiled in the Indian trade themselves that they were unwilling to act, traders traded as they pleased. The continuation of trade on the terms of the traders meant that the flow of Indian slaves from the southeast continued into the early eighteenth century—so much so that Pennsylvania’s government pushed through a 1705 act prohibiting their importation into the colony, as arriving Carolina Indians gave “the Indians of this province some umbrage for suspicion and dissatisfaction.”<sup>61</sup> The 1707 licensing act in Carolina was blatantly ignored, and while the commissioners appointed by the law dispatched

instructions . . . to the Indian Traders that no Slave be sold till they have bin three Dayes in their Town. And that the Traders receive no Rum Debts from the Indians nor Relations . . . That itt be an Instruction that the Traders doe sease the Slaves or Goods of any Person trading without a Licence,

the traders themselves persistently disobeyed such commands until the system collapsed in bloodshed and chaos in 1715.<sup>62</sup>

As with the enforcement of the navigation acts, the failure of regulation was in no small way related to the inability of authorities to make their influence felt in a distant and expansive landscape. In Carolina, those involved in the Indian trade were keenly aware that bridging the massive distances between Charles Town, the European center of New World society, and the Indian towns was key to both their trading success and their ability to control the trade. Buying their goods from wealthy merchants based in Charles Town, traders had to transport their wares southwest to where their customers resided. As early trader and planter John Seabrooke quickly discovered, “the distance from Charles Town to the Nations with whom he had any Dealings” was “very long and tedious insomuch that the Losses and disapointments he usually mett whithall in going to and from the Said Indians to buy Goods was very Considerable.” As a result, Seabrooke “resolved to build him a house wherein to putt and secure his goods in some place that should be neare more Comodious.”<sup>63</sup> Creating such stores—in Indian towns and on plantations—physically relocated the marketplace of the Indian trade many hundreds of miles from Charles Town and removed it from the view of those colonial and imperial officials who hoped to regulate it.

Pushing through the first act concerning the Carolina Indian trade in 1707, Thomas Nairne sought to overcome the distance issue by fashioning

himself as a roving agent who would spend ten months of the year touring Indian country. Nairne's diligence was thwarted, however, by a governor and executive who undermined him at every turn when they realized that his efforts might curtail their income from the Indian slave trade.<sup>64</sup> Subsequent statutes controlling Carolina's Indian trade continued to legislate for an agent who would enforce regulations on the spot, but, as the colony's white elites became ever more ensconced in the genteel comfort of Charles Town and its environs, it became impossible to get any high-ranking official to visit the Indian towns, let alone live in them.<sup>65</sup> Far from the center of government, the Indian trade would thus continue to occur in a manner and a place that traders themselves found convenient. Indeed, traders' ability to continue to evade central authority even after the 1707 act was strongly reflected in the courts, where large numbers of Indian dealers were called to account for unpaid debts to Charleston merchants and for unpaid fines for trading without licenses.<sup>66</sup>

Repeated efforts to organize Indian traders faced the same problems that Quarry and Randolph had confronted when they tried to enforce the 1696 act. These problems—the vastness of the landscape, the factional tendency of colonial authorities, and the habit of colonial traders to trade according to their own wishes rather than the letter of the law—all stymied ongoing efforts to introduce top-down regulation. Traders in various sectors of the domestic economy had successfully managed to conduct business in a manner that suited their own interests, ignoring the somewhat tardy efforts of authorities to disrupt their established customs. Indeed, recent research on the relationship of colonists with the Dutch in the seventeenth century ably reiterates the tendency of colonists to pursue the channels and methods of commerce that best suited their interests, even in the face of attempted intervention. Long-established trade networks between colonists from New York to Virginia with the Dutch survived successive efforts to curb these networks in the later seventeenth century. While war put a stop to direct trade between the mainland and the Netherlands after 1690, English and Dutch commercial associates continued to find ways to ensure that their profitable relationships continued into the eighteenth century—a state of affairs that the 1710 government initiative to investigate the trade with Curaçao and St. Thomas was no doubt designed to stop.<sup>67</sup>

### *Conclusions*

Quite often, economic historians have regarded the period before 1720 as the era in which the structures for a lucrative eighteenth-century staple

and mercantile trading system were put in place. They assess the foundations of a system of slave labor, analyze the “search for a staple,” and seek to document the processes by which valuable crops were propagated and exported. For those more northerly colonies not involved in the growing of exotic export commodities, the story is that of the growth of a coastwise trade in which New England and New York merchants sent provisions to feed the workers forced into the fields to grow these crops. In the light of such developments, the navigation acts appear as the promoters of staple agriculture and the interests of the planters and merchants who were central to its success. Indeed, there can be little doubt that, in this respect, the acts were critical to the growth of an Atlantic economic system. However, as this essay has suggested, it is also important to look at the footprint of such legislation on the trading practices of colonists and to consider the degree to which such laws were successful in reshaping the habits of settlers who had already established their own *modus operandi* in an era of less-direct interference from the metropolitan authorities.

Such an approach yields important insights into the economic structures of these young colonies. By the turn of the eighteenth century, a number of colonists had already established a belief in their right to conduct trade according to their own interests rather than the interests of those authorities who were seeking to rein them in. Indian traders and merchants alike sought to evade the control of provincial governments and English officials who wished to prevent them from selling rum to Indians, conducting bargains away from places deemed as the proper sites of commerce, and trading at will with the Dutch and other European enemy nations in the Caribbean. In large measure, colonists did as they pleased for three main reasons. First, metropolitan policy was not followed up with sufficient resources to implement the intended reforms. Second, the colonial institutions were weak and operated within an expansive landscape. Third, the colonial governments, which were riven by internal conflict and focused on establishing export economies, failed to replicate the types of institutions that were charged with regulating commerce at the local community level in the metropole. It is highly questionable as to whether even the most concerted efforts would have been successful, however. While English officials failed to grasp the impossibility of marshaling traders in a country of endless rivers, coves, and beaches, colonial authorities were confounded both by their own disunity and by the lack of any means to control settlers who were determined to do as they pleased. As a result, the decades before 1720 must be understood not only as the

time of the establishment of a British Atlantic commercial system but also as an era in which colonists learned to see their interest in trading with whom they liked, where they liked, and when they liked as a right that no government had the authority to take away from them.

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## NOTES

- 1 “An Account of several things whereby illegal trade is encouraged in Virginia, Maryland and Pennsylvania, with methods for preventing the same, submitted to the Commissioners of Customs by Edward Randolph,” August 17, 1696, The National Archives (hereafter TNA), CO 323/2, nos. 6, 61–xii; Michael G. Hall, “The House of Lords, Edward Randolph, and the Navigation Act of 1696,” *William and Mary Quarterly*, 3rd ser., 14, no. 4 (1957): 494–515.
- 2 This new heavy-handed approach was long ago noted by Thomas C. Barrow in his definitive study of the creation of the colonial customs service. See Barrow, *Trade and Empire: The British Customs Service in Colonial America, 1660–1775* (Cambridge, Mass., 1967), 53–59.
- 3 Ian K. Steele explains how Parliament and the House of Lords both supported “strengthening enforcement of Imperial Trade regulations . . . and authoriz[ing] new prerogative vice-admiralty courts in the colonies”; see Steele, “The Anointed, the Appointed, and the Elected: Governance of the British Empire, 1689–1784,” in *The Oxford History of the British Empire*, vol. 2, *The Eighteenth Century*, ed. Peter J. Marshall (New York, 1998), 110. Thomas C. Barrow, in *Trade and Empire*, is more circumspect about the long-range success of the customs service, but he does argue that the period before 1710 witnessed “an exhaustive effort to achieve enforcement of the Navigation Acts” (58) and that Edward Randolph traveled through the colonies “bringing order and system to customs operations” (69). John J. McCusker and Russell R. Menard have also argued that after the passage of the navigation acts between 1660 and 1700, “smuggled goods accounted for a tiny fraction of all quantities handled” and that smuggling from the Dutch and French Caribbean consisted mostly of luxury goods; see McCusker and Menard, *The Economy of British America* (Chapel Hill, N.C., 1985), 76–78.
- 4 Perry Gauci, introduction to *Regulating the British Economy, 1660–1850*, ed. Gauci (Burlington, Vt., 2011), 19.
- 5 Steve Pincus, “Rethinking Mercantilism: Political Economy, the British Empire, and the Atlantic World in the Seventeenth and Eighteenth Centuries,” *William and Mary Quarterly* 69, no. 1 (2012): 3–34; Nuala Zahedieh, *The Capital and the Colonies: London and the Atlantic Economy, 1660–1700* (New York, 2010).
- 6 Cathy Matson, “Imperial Political Economy: An Ideological Debate and Shifting Practices,” *William and Mary Quarterly* 69, no. 1 (2012): 40.

- 7 See Douglas Bradburn, "The Visible Fist: The Chesapeake Tobacco Trade in War and the Purpose of Empire, 1690–1715," *William and Mary Quarterly* 68, no. 3 (2011): 361–86; Nuala Zahedieh, "Regulation, Rent-Seeking, and the Glorious Revolution in the English Atlantic Economy," *Economic History Review* 63, no. 4 (2010): 865–90; and Mark G. Hanna, "The Pirate Nest: The Impact of Piracy on Newport, Rhode Island and Charles Town, South Carolina, 1670–1730" (PhD diss., Harvard, 2006).
- 8 The idea of interests has been explored by Michael G. Kammen, *Empire and Interest: The American Colonies and the Politics of Mercantilism* (Philadelphia, 1971). Kammen is mostly preoccupied, however, with how changing sets of interests came to determine imperial policy from the British end of things in the period after 1763.
- 9 This "profits or religion" paradigm has dominated discussion of the colonies before 1720 and is embodied by McCusker and Menard, *Economy of British America*. A notable departure from this paradigm is Katherine Carté Engel, *Religion and Profit: Moravians in Early America* (Philadelphia, 2009), which nevertheless focuses on the eighteenth century.
- 10 Statistics documenting this increase can be found in Zahedieh, *The Capital and the Colonies*, table 6.1, 240; and McCusker and Menard, *Economy of British America*, table 2.1, 40.
- 11 For a summary of these ambitions, see Barrow, *Trade and Empire*, 53.
- 12 *Ibid.*, 60–83. Those mainly put in charge in the colonies of enforcing the rules of trade were naval officers, who were given the duty in 1673.
- 13 Council of Trade and Plantations to the King, September 21, 1721, in *Calendar of State Papers, Colonial Series*, vol. 32, 1720–1721, ed. W. Noel Sainsbury (London, 1933), 408–49.
- 14 Colonel Quarry to Council of Trade and Plantations, March 26, 1702, TNA, CO 323/3, no. 120; CO 324/8, pp. 86–106.
- 15 Governor of Carolina to Council of Trade and Plantations, Carolina, September 17, 1709, TNA, CO 5/1264, no. 86; CO 5/1292, pp. 166–76.
- 16 "Reasons for Settling a Port and Appointing Custome house officers at Port Royall in South Carolina," anonymous and undated but estimated 1690–1710, Port Royal, SC, MS (T), South Caroliniana Library, Columbia, S.C.
- 17 South Carolina Judgment Rolls, July 30, 1714, Richard Wigg vs. Miles Harding; July 29, 1714, Wigg vs. Capt. Godfrey; November 25, 1714, Wigg vs. Joseph Swaddle, South Carolina Department of Archives and History, Columbia, S.C. It should also be noted that in his 1753 report, Governor James Glen reiterated the customs deficiency in South Carolina by saying that, in England, "there being Cruizing Vessels to intercept the Smugglers at Sea, Riding Officers to intercept the goods on shore, Searchers, Tide Waiters, Land Waiters, Officers to Watch in the Night, others to tend in the day, and Officers kept on board all Vessels; But here we have few or no Officers." Report, 1753, in James Glen Papers, South Caroliniana Library.
- 18 Governor the Earl of Bellomont to Council of Trade and Plantations, New York, May 18, 1698, TNA, CO 5/1040, nos. 64, 64i–vi; CO 5/1115, 412–20.

- 19 Governor the Earl of Bellomont to Council of Trade and Plantations, New York, June 22, 1698, TNA, CO 5/1040, no. 73, 73i–xx; CO 5/1115, 396–411.
- 20 George Clarke to William Blathwayt, July 23, 1705, William Blathwayt Papers, BL 155, Huntington Library, San Marino, Calif.
- 21 Hanna, in “The Pirate Nest,” discusses how a desire for security and a better money supply finally led to the cooperation of the authorities in Carolina on the question of piracy. On the question of smuggling, however, authorities were still unenthusiastic.
- 22 Hall, “The House of Lords.”
- 23 William Penn to the Board of Trade, December 19, 1698, in *The Papers of William Penn*, vol. 3, 1685–1700, ed. Marianne S. Wokeck et al. (Philadelphia, 1986), 561–62.
- 24 Stuart O. Stumpf, “Edward Randolph’s Attack on Proprietary Government in South Carolina,” *South Carolina Historical Magazine* 79, no. 1 (1978): 14–15; Hanna, “The Pirate Nest,” 235–43. My perusal of the Vice-Admiralty Court records for Charleston reveals that smugglers did not frequently appear before the court in the eighteenth century, a situation suggesting that the court was ineffective, not that there was no smuggling; Records of the Vice-Admiralty Court, South Carolina Department of Archives and History.
- 25 W. Popple to Mr. Wharton, Whitehall, March 26, 1705, TNA, CO 5/1291, 133–38, Enclosure 1; Governor Lord Cornbury to the Council of Trade, New York, June 13, 1705, CO 5/1049, nos. 8, 8i, ii; CO 5/1120, 418–26. One can add to this the actions of Massachusetts Bay colonial authorities, who, “for carrying on illegal practices in matters of Trade and Navigation . . . have erected an Admiralty Jurisdiction amongst themselves without any authority, and refused to yeild obedience to the Courts and Officers vested by HRH the Lord High Admiral with due authority for the tryal of marine and other causes appertaining to such Courts in those parts, and have not permitted the Collector and Receiver on behalf of HRH to have anything to do therein”; Council of Trade and Plantations to the Queen, Whitehall, January 13, 1704, CO 5/1290, 413–16.
- 26 Circular letter, January 19, 1710; multiple references, but viewed at TNA, CO 324/9, 422–29.
- 27 Supporting this situation is a wealth of later evidence regarding the clandestine trade carried on between the mainland colonies and the Caribbean. For discussion of this trade from New York, see Thomas Truxes, *Defying Empire: Trading with the Enemy in Colonial New York* (New Haven, Conn., 2008); of trade to St. Eustatius, see Victor Enthoven, “‘That Abominable Nest of Pirates’: St. Eustatius and the North Americans, 1680–1780,” *Early American Studies* 10, no. 2 (2012): 239–301. Manuscript material includes such documents as the Benjamin Fuller Letterbook, AMB 3785, vol. 1, 1762–81, Historical Society of Pennsylvania. Fuller discusses the potential for some illegal ventures with correspondents in this volume.
- 28 Council of Trade and Plantations to the King, September 21, 1721, 408–49.
- 29 Zahedieh, *The Capital and the Colonies*, 52, 119–21.



- 30 For discussions of these contingencies, see *Regulating the British Economy*, ed. Gauci; and Zahedieh, *The Capital and the Colonies*.
- 31 Gauci, introduction to *Regulating the British Economy*, 23.
- 32 For a discussion of how interests functioned in economic policymaking, and in particular of how regional interests interfaced with Westminster interests in an English domestic context, see Mark Knights, "Regulation and Rival Interests in the 1690s," in *Regulating the British Economy*, ed. Gauci, 63–82.
- 33 Governor Nicholson to the Duke of Shrewsbury, Annapolis, Md., June 14, 1695, TNA, CO 5/718, nos. 18, 18i, ii; Governor Nicholson to Council of Trade and Plantations, Annapolis, Md., July 13, 1697, CO 5/714, nos. 25, 25i–xiii; CO 5/725, 119–37; Order of the King in Council, Kensington, January 18, 1700, Enclosure 1: Petition of Samuel Allen, Proprietor of New Hampshire in New England and late Governor thereof, to the King, CO 5/861, nos. 9, 9i; CO 5/908, 422–25; "Memorial of Benjamin Harrison respecting the trade, and Collection and management of revenue arising thereby, in Virginia," July 11, 1698, CO 5/1309, no. 55; CO 5/1359, 235–46: "There is great pretence of securing the King's interest . . . as also that there may [be] such a thing as illegal trade in the province."
- 34 Governor the Earl of Bellomont to the Lords of the Treasury, New York, July 1, 1698, TNA, CO 5/1040, no. 79; CO 5/1115, 441–51.
- 35 Commissioners of Customs to the Lords of the Treasury, Custom House, November 16, 1696, TNA, CO 5/1; CO 5/3, nos. 34, 34i; CO 5/1287, 5–13: "Forwarding a Memorial from Edward Randolph Concerning breaches of the Acts of Trade and Navigation in the Colonies," Signed Robert Southwell, C. Godolphin, Samuel Clarke, Ben. Overton.
- 36 For discussion of the Rhode Island governor's disobedience, see Council of Trade and Plantations to the King, Whitehall, December 21, 1698, TNA, CO 5/1287, 275–81. Also see Edward Randolph to Council of Trade and Plantations, New York, August 25, 1698, CO 323/2, nos. 129, 129i–iii; CO 324/6, 373–77, in which Randolph seeks to clarify the position of proprietary governors.
- 37 Colonel Quary to the Council of Trade and Plantations, March 26, 1702, TNA, CO 323/3, no. 20; CO 324/8, 86–106.
- 38 Mr. Carkesse to Mr. Popple, Custom House, London, March 20, 1718, TNA, CO 5/1265, nos. 94, 94i; CO 5/1293, 141, Enclosure 1: Extract of a letter from Colonel William Rhett, surveyor of customs in Carolina.
- 39 Carolina Proprietors to Grand Council, September 10, 1685, reproduced in *Records in the British Public Record Office Relating to South Carolina*, vol. 2, 1685–1690, indexed by A. S. Salley Jr. (Atlanta, 1929); Carolina Proprietors to Earl of Sunderland, February 15, 1709, reproduced in *Records in the British Public Record Office Relating to South Carolina*, vol. 5, 1701–1710, indexed by A. S. Salley Jr. (Atlanta, 1947).
- 40 Penn maintained that he was creating this post to enforce the navigation acts properly, especially in the disputed Lower Counties. This measure did not go over well with the Board of Trade, however, which accused him at first of

trying to take powers from the Vice-Admiralty courts. Eventually, Sir Edward Southey ruled in Penn's favor, and the bailiffs stayed. See Southey's note to the Board of Trade, *Papers of William Penn*, 3:175–76.

- 41 Copy of Colonel Quarry's Answer to Mr Penn's complaints against him, June 23, 1702, TNA, CO 5/1261, no. 118; CO 5/1233, no. 38; CO 5/1290, 71–87.
- 42 Governor the Earl of Bellomont to Council of Trade and Plantations, New York, May 18, 1698, TNA, CO 5/1040, nos. 64, 64i–vi; CO 5/1115, 312–20; “Memorial of Benjamin Harrison respecting the trade, and collection and management of revenue arising thereby, in Virginia,” July 11, 1698, CO 5/1309, no. 55; CO 5/1359, 235–46. See also Robert Quarry to the Commissioners of Customs, Philadelphia, March 6, 1700, CO 323/3, nos. 44.A., 44.A.i.; CO 324/7, 284–96: “This great abuse [entering barrels as hogsheads for underweighing] proceeds from the Collectors vieing with one another who shall receive most of the money for the duty of the tobacco, and the merchants accordinly tell one that unless he will give them such an encouragement they will enter with the other, who will accept of the terms.”
- 43 “[N]or can the officers of H.M. Customes be safe, in putting the Acts of Trade in force, because on seizeing of any vessill for illegal trade (being out of command) they may easily be carryd off to sea, or made willing to be put on shoar, and wch. hath been seaveral times, and very lately practiced, in the Charter Governments. Another law was made for establishing of fees, by virtue wereof the officers of H.M. Customes, have been most griveously insulted and abused”; Caleb Heathcote to the Council of Trade and Plantations, New Port Road Island, September 7, 1719, TNA, CO 5/1266, fols. 47–49v.
- 44 Governor the Earl of Bellomont to Council of Trade and Plantations, New York, October 21, 1698, TNA, CO 5/1041, nos. 12, 12i–xxxi; CO 5/1116, 121–34; Henry Hartwell and others to William Popple, October 20, 1697, CO 5/1309, nos. 31, 31i; CO 5/1359, 129–96.
- 45 Lt. Governor Spotswood to the Council of Trade and Plantations, Virginia, July 25, 1711, TNA, CO 5/1316, nos. 71, 71i–ix; CO 5/1363, 346–67; CO 5/9, no. 17.
- 46 William Penn to Robert Harley, ca. April 1701, in *The Papers of William Penn*, vol. 4, 1701–1718, ed. Craig W. Horle et al. (Philadelphia, 1987), 42–44; Penn to Matthew Birch, Philadelphia, June 2, 1700, 3:105–6, 602–3.
- 47 See Barrow, *Trade and Empire*, 59.
- 48 *Minutes of the Provincial Council of Pennsylvania*, vol. 1 (Philadelphia, 1852), 548 (May 11, 1699).
- 49 William Penn to Robert Harley, ca. April 1701, *Papers of William Penn*, 4:42–44.
- 50 Earl of Bellomont to the Commissioners of Customs, New York, November 23, 1700, Enclosure 26, TNA, CO 5/1045, nos. 18, 18i–l; Robert Quarry to Lord Cornbury, May 30, 1704, Enclosure 1, CO 323/5, no. 51.
- 51 William Penn to Council of Trade and Plantations, London, March 13, 1704, TNA, CO 5/1290, pp. 459–62; Lieutenant Governor Nicholson to Lords of Trade and Plantations, James City, Virginia, February 26, 1692, CO 5/1306,

- no. 89; CO 5/1358, 152–55; Edward Randolph to William Popple, New York, May 12, 1698, CO 323/2, nos. 114, 114i–iv. It also did not help that some proprietors went out of their way to use commerce as a pawn in their own power struggles. See Gary Nash, “Maryland’s Economic War with Pennsylvania,” *Maryland Historical Magazine* 60 (1965): 231–44.
- 52 For information on the British customs service in this era, see Elizabeth Evelynola Hoon, *The Organization of the English Customs System, 1696–1786* (New York, 1968). On British smuggling, see Paul Monod, “Dangerous Merchandise: Smuggling, Jacobitism, and Commercial Culture in Southeast England, 1690–1760,” *Journal of British Studies* 30, no. 2 (1991): 150–82; and Hoh-Cheung and Lorna H. Mui, “Smuggling and the British Tea Trade before 1784,” *American Historical Review* 74, no. 1 (1968): 44–73.
- 53 See, for example, Governor Nicholson to the Duke of Shrewsbury, Annapolis, Md., June 14, 1695, TNA, CO 5/718, nos. 18, 18i, ii; Governor Nicholson to Council of Trade and Plantations, Annapolis, Md., July 13, 1697, CO 5/714, nos. 25, 25i–xiii; CO 5/725, 113, 114, 119–37, 138–41, 142–43, 144–48, 161–63.
- 54 Colonel Quarry to the Council of Trade and Plantations, Virginia, October 15, 1703, TNA, CO 323/5, nos. 19, 19i–iv; CO 324/8, 349–71; CO 5/970, no. 13; CO 5/1262, nos. 52i, ii.
- 55 For a discussion of this process, see Will Pettigrew, “Regulatory Inertia and National Economic Growth: An African Trade Case Study, 1660–1714,” in *Regulating the British Economy*, ed. Gauci, 25–40.
- 56 Pincus, “Rethinking Mercantilism”; Proposals of William Penn to the Committee of the House of Lords, April 1697, TNA, CO 323/2, no. 50.
- 57 William Penn, “Certaine Conditions or Concessions agreed upon by William Penn Proprietary & Governor of the Province of Pensilovania, & those who are the adventur[ers] and purchasers in the same Province The 11 of July 1681,” in *The Papers of William Penn*, vol. 1, 1644–1679, ed. Mary Maples Dunn and Richard S. Dunn (Philadelphia, 1981), 99–100. William Penn to The Emperor of Canada, June 21, 1682: “I have sett up a Society of Traders in my Province to traffick with thee and thy people for your Commodities that you may be furnished with that which is good at reasonable rates,” in *The Papers of William Penn*, vol. 2, 1680–1684, ed. Dunn and Dunn (Philadelphia, 1982), 261.
- 58 “Instructions for the Commissioners appoynted to heare and determine differences between the Christians and the Indians,” May 17, 1680, reproduced in *Records in the British Public Record Office Relating to South Carolina*, vol. 1, 1663–1684, indexed by A. S. Salley Jr. (Atlanta, 1928); *Journals of the Commons House of Assembly of South Carolina for the Two Sessions of 1698*, ed. A. S. Salley Jr. (Columbia, S.C., 1914), 22 (October 4, 1698).
- 59 *Minutes of the Provincial Council of Pennsylvania*, vol. 2 (Philadelphia, 1852), 33 (July 3, 1701).
- 60 *Ibid.*, 2:246 (June 6, 1706). For a narrative of economic relations as part of larger Indian–white relations in early Pennsylvania, see Jane Merritt, *At the Crossroads: Indians and Empires on a Mid-Atlantic Frontier, 1700–1763* (Chapel Hill, N.C., 2003).

- 61 *The Statutes at Large of Pennsylvania*, vol. 2, 1700–1712 (Harrisburg, Pa., 1896), 236–37.
- 62 Entry for July 31, 1711, *Journal of the Commissioners of the Indian Trade, 1710–18* (Columbia, S.C., 1955). For a narrative of the role of trade in the forging of the colonial southeast and for a full account of the Indian slave trade, see Alan Gally, *The Indian Slave Trade: The Rise of the English Empire in the American South, 1670–1717* (New Haven, Conn., 2002).
- 63 John Seabrooke vs. Jane Bray, September 8, 1702, *Records of the Court of Chancery of South Carolina, 1671–1779*, ed. Anne King Gregorie, American Legal Records 6 (Binghamton, N.Y., 1950), 79. John Lawson also noted that “this day we travell’d about 30 Miles, and lay all Night at a House which was built for the Indian trade, the Master thereof we had parted with at the French Town, who gave us leave to make use of his Mansion. Such Houses are common these Parts, and especially where there is Indian towns, and Plantations near at hand, which this Place is well furnish’d withal”; Lawson, *A New Voyage to Carolina: Containing the Exact Description and Natural History of that Country Together with the Present State thereof and a Journal of a Thousand Miles, Travel’d thro’ several Nations of Indians. Giving a particular Account of their Customs, Manners, &c* (London, 1709), 16.
- 64 Gally, *Indian Slave Trade*, 219–22.
- 65 This was the case with William Pinckney, who was appointed commissioner by the 1739 act but who did not go to the backcountry.
- 66 See, for example, Major William Smith vs. Anthony Robert, Indian trader, October 28, 1706; Elizabeth Blake, widow, vs. John Jones, Indian trader, January 10, 1707; Dove Williams vs. Alexander Clarke, Indian trader, October 24, 1710, South Carolina Judgment Rolls, South Carolina Department of Archives and History. Of all the cases involving Indian traders before 1714, traders were the complainants in only two instances. It is clear that distance also permitted dubious trading practices among whites. Jane Scott traveled all the way from London in 1700 to claim money due her from Helen Bristow. Scott had left her millinery business in the hands of Bristow, who, in her absence, had absconded to Charles Town, where she sold all of Scott’s stock and used the profits to go to the Bahamas with her son. See Jane Scott vs. George Logan, SC, June 21, 1700, in *Records of the Court of Chancery of South Carolina, 1671–1779*, 70–75.
- 67 Victor Enthoven and Wim Klooster, “The Rise and Fall of the Virginia-Dutch Connection in the Seventeenth Century,” in *Early Modern Virginia: Reconsidering the Old Dominion*, ed. Douglas Bradburn and John Coombs (Charlottesville, Va., 2011), 90–127; April Lee Hatfield, “Mariners, Merchants, and Colonists in Seventeenth-Century English America,” in *The Creation of the British Atlantic World*, ed. Elizabeth Mancke and Carole Shammas (Baltimore, 2005), 139–59; Claudia Schnurmann, “Seventeenth-Century Atlantic Commerce in Nieuw Amsterdam/New York Merchants,” in *Jacob Leisler’s Atlantic World in the Later Seventeenth Century*, ed. Hermann Wellenreuther (Piscataway, N.J., 2009), 33–68.