

WRETCHES, ROGUES, AND REBELS:
SMUGGLERS IN ENGLISH PRINT CULTURE 1660-1766

By

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ABSTRACT

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This dissertation examines smugglers as they appeared in English print culture from their first appearance as “smuckellors” in a 1661 Royal Proclamation to 1766 when Parliament repealed the Revenue Act of 1764 amid protests over the government’s crackdown on the vital molasses smuggling trade. Since the nineteenth century, historians have focused on community acceptance of smuggling, arguing that most Britons did not believe smuggling was criminal. However, this dissertation reveals a strong counter-narrative that has not been fully explored. From the nineteenth century onward, smugglers were often depicted as “honest thieves” and integral parts of coastal communities. In eighteenth-century print they were vilified and portrayed as a distinct criminal class that threatened the economic stability of the empire. British authors exalted trade as the foundation of imperial strength, especially in regard to domestic wool production and sugar from the British West Indies. These authors regularly attacked smugglers as one of the principal threats to these industries, offering an economic millenarian view of potential imperial decline if illegal trade were not suppressed. Historians have revealed much about smugglers’ struggle with law enforcement, techniques for evasion, and their social origins, but this dissertation reveals their complicated image in English print culture. A degree of community support is undeniable, but through study of newspapers, pamphlets, magazines, Parliamentary debates, and other printed media this dissertation shows that countless authors, including printers, journalists, Members of Parliament, merchants, manufacturers, economists, and poets, described smugglers as the most significant criminal threat to British society, worse than gangs of highway robbers. Moreover, eighteenth-century metropolitan perceptions of regional smuggling, most notably of Kent and Sussex, shaped contemporary and historical writing. Newspaper printers focused on these areas and contributed to reputational stain on their communities. The British colonists of mainland North America were eventually cast as smugglers, which exacerbated the separation and dispute between mother country and colonies.

To Monica

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Introduction

Smugglers are elusive figures. They must be elusive by the very nature of their trade. Smugglers earn their livelihood through the subversion of laws, often of multiple governments, and the successful evasion of law enforcement officers who seek to arrest them and confiscate their goods. Smugglers are also elusive in the sense that they are hard to characterize or understand. Smuggling is a crime against an abstract victim, the state, which rarely receives sympathy from the common people. This was especially true in the eighteenth-century British empire when so many subjects' lives were tied to the smuggling trade, which was a crime with serious consequences.

The difficulty in characterizing smugglers can be seen in some contemporary definitions for the word smuggler. James Buchanan, an eighteenth-century lexicographer, defined a smuggler as "one who runs goods," in his 1757 English dictionary.¹ Buchanan was simple, succinct, and impartial, but the famed wordsmith Samuel Johnson was less so. In his 1755 dictionary, Johnson defined a smuggler as "a wretch, who, in defiance of justice and the laws, imports or exports goods either contraband or without payment of the customs."² Ironically, Johnson was not kind to the other side of the smuggling dilemma, defining the excise as "a hateful tax levied upon commodities, and adjudged not by the common judges of property, but wretches hired by those to whom the excise is paid."³ Not all Britons believed smugglers to be wretches. The English essayist and poet Charles Lamb later said of them, "I like a smuggler. He is the only honest thief. He robs nothing but the revenue, an abstraction I never greatly cared about."⁴

Lamb's view was not just a poet's romanticization; it was an opinion held by contemporaries with moral authority. The English Reverend James Woodforde had a series of interactions with a

¹ James Buchanan, *Linguae Britannicae vera pronuntiatio: or, a new English dictionary* (London, 1757).

² Samuel Johnson, *A Dictionary of the English Language* (London, 1755).

³ *Ibid.*

⁴ Charles Lamb, *The Works of Charles Lamb*, vol. 3 (London, 1838), 67.

smuggler during the 1770s that he recorded in his diary. He made entries about buying tea, silk handkerchiefs from India, rum, and gin while once referring to the illicit trader as “my smuggler.”⁵ The relationship lasted at least three years and in his last entry on their interactions Woodforde wrote “I did not go to bed till after 12 at night, as I expected Richd. Andrews the honest smuggler with some gin.”⁶ The moral ambiguity of smuggling is revealed by these opposing definitions and opinions. Smugglers were thieves to some, but to others it was the state or corrupt officials who robbed the common people and honest merchants of their earnings, however illicitly gained. Even a man of God could sleep easily, albeit after waiting up a while, after doing business with a smuggler.

Smugglers have been portrayed as heroes and villains for hundreds of years as authors have taken advantage of the moral gray area of their criminal activities. They have been depicted as actors in class struggles or as pure capitalists, as integral members of communities or dangerous interlopers. The image of the hero smuggler and honest thief is perhaps best exemplified by two of the most famous fictional smugglers: Han Solo and Ser Davos Seaworth. Han Solo of the Star Wars saga was introduced as a somewhat untrustworthy smuggler who was found in the Mos Eisley spaceport, a “wretched hive of scum and villainy.”⁷ Solo is a charming smuggler with rough edges who agrees to rescue the main characters of the film by carrying them past Imperial forces. In the process, it is revealed that he has an outstanding debt with a powerful crime family, and he has a price on his head. A bounty hunter corners Solo in a cantina, but the smuggler shoots him with a hidden weapon. This violent encounter and his connection with organized crime set the stage for Han Solo to be a breakout character, the amiable but dangerous smuggler who would use his criminal expertise for good. Smuggling here is a justified crime when it is used to avoid an evil and overbearing state.

⁵ James Woodforde, *The Diary of a Country Parson: The Reverend James Woodforde, 1758-1781*, ed. John Beresford (London: Oxford University Press, 1924), 197, 198, 201, 221.

⁶ Woodforde, *Diary of a Country Parson*, 282.

⁷ *Star Wars: A New Hope*, directed by George Lucas (Lucasfilm Ltd, 1977), 42:30 to 42:48, <https://www.disneyplus.com/video/f4add311-5f2a-4d79-a6c3-588a1765b7d9l>.

Ser Davos Seaworth of HBO's *Game of Thrones* is an even more recent example of the honest thief archetype. Davos Seaworth makes his career as a smuggler in the fictional world of Westeros before using his skills in evading detection while relieving a besieged castle. He smuggles food through a blockade and saves desperate men who defend the castle. The leader he saves, Stannis Baratheon, both rewards and punishes Davos. For his heroism in running the blockade, he knights him and makes him his confidant, but for his previous smuggling crimes he cuts off the tips of his fingers on one hand. Davos is both hero and criminal, but ultimately shown to be one of the most honorable and honest men in that fictional world. Han Solo and Ser Davos Seaworth are two of the most beloved characters of contemporary popular media. It seems Charles Lamb is not alone in his affinity for smugglers.

Similar to these fictional smugglers, real smugglers have received complicated and conflicted portrayals at various points in history. However, smugglers received a much more negative representation in print in mid-eighteenth-century Britain than the recent heroic characters of Han Solo and Ser Davos Seaworth would suggest. Smugglers were later romanticized, much like the pirates of the previous two centuries, but in the eighteenth century they were publicly denounced as the scourge of the British empire. Authors were more inclined to side with Samuel Johnson in their view of illicit traders, despite some public sympathy. The negative portrayal of smugglers in print was due to the proliferation of smuggling in the eighteenth century and the violence which often accompanied it. Britain and its colonies were perfectly vulnerable to a rising smuggling trade, as was the wider Atlantic world. European imperial governments made constant efforts to regulate and tax trade in order to organize and fund their growing empires, but these governmental impediments to trade created opportunities for merchants willing to take significant risks.

What was best for the British government might not have been what was best for its many far-flung subjects. When customs duties, excise taxes, or Navigation Acts impeded what had been lawful trade, many turned to smuggling. Subjects of the other Atlantic empires suffered under their own trade

restrictions as well. Smuggling often offered relief across national and colonial borders for private individuals, at imperial expense, though local officials, ostensibly loyal to the state, often supported or ignored illegal trade for economic gain. There were also aggrieved merchants who bought their goods customed through proper channels and could not match the prices of smugglers. Parliament was constantly considering solutions to the smuggling problem in the eighteenth century. Accordingly, it was a topic frequently reported in newspapers, analyzed at length in pamphlets, referenced in verse, and even depicted on stage. A voluminous discourse appeared in print, and this dissertation mines this wealth of resources to understand how smugglers were portrayed and perceived in the British empire and how the British experience with smuggling affected the relationship between ministerial authority and domestic and colonial subjects.

It is important to discuss here key concepts, that is, print and reading publics. There are many reasons to examine printed works from this period, not least of which is the too frequent glossing over them by historians who have minimized their value. It is true that newspapers, pamphlets, and magazines of eighteenth-century Britain were created by the middle and upper class, mainly centered in London, and consumed by a reading public of similar social background. These articles and opinion pieces did not reflect the thoughts and beliefs of the common people who lived on the coasts and made their living running in brandy and tea, or the lower classes who winked at smuggling in their communities. Printed discourse still shows a powerful counter-narrative to the seemingly widespread popular acceptance of smuggling that contemporaries and historians alike have noted. Economists, merchants, playwrights, newspaper printers, journalists, politicians, and concerned subjects contributed to a critical discourse on smugglers and illegal trade from the 1660s to the American Revolutionary era. These authors created a counter-narrative that was prolific and overwhelmingly at odds with the popular perception that smuggling was no great crime. Many of these authors actively sought to correct

that seemingly popular notion. Print culture represented the views of writers, but it also created, promoted, and shaped public opinion through the spread of newspapers and other published material.

Newspaper printers generally collected information from numerous authors to fill the columns of a single issue. Foreign news was often copied from continental newspapers, particularly from Dutch papers, or printers received reports from correspondents in foreign cities. Ship news was also common. Captains would relay news from their voyages, especially about the incoming and outgoing of ships from port cities. Domestic news could also spread through ships that sailed between British ports, or in reports sent to London from inland towns and cities. Eventually London papers borrowed content from provincial presses. The spread of news was pervasive, but far from systematic. Newspaper printers could not pay reporters to send news throughout the kingdom, but there was a steady flow of information concerning smuggling through court cases, concerned merchants, and custom house reports. Brief news items were nearly always printed anonymously and their authorship is often untraceable, but essays and letters in newspapers and magazines were sometimes signed by an individual who can be identified. Historians have also identified many newspaper “journalists,” a term already used in the eighteenth century.⁸ These give a sense of the individuals who contributed to the eighteenth-century discourse on smuggling. Three illustrative examples are novelist Daniel Defoe, printer Edward Cave, and journalist Raphael Courteville.

Daniel Defoe gained lasting fame for his novel *Robinson Crusoe*, yet he wrote prolifically on numerous other topics in the early eighteenth century. Before his writing career, he was a merchant and his business interests were reflected in many of his works, such as *The Complete English Tradesman*, published in 1726. Defoe also wrote a number of political tracts, notably defending Whig petitioners from Kent in 1701 who feared a potential French invasion on the southern English coast. He also

⁸ Michael Harris, *London Newspapers in the Age of Walpole: A Study of the Origins of the Modern English Press* (London: Associated University Presses, 1987), 99.

defended the Tory ministry of Robert Harley throughout the War of Spanish Succession, despite his Whig politics. Defoe's concern about British economic growth came to the fore when he discussed smuggling. As someone interested in the trade of Great Britain, he often wrote very critically of illegal commerce. Historian Michael Harris calls Defoe "the archetype of the professional newsman," and notes that he contributed to several newspapers and "edited the *Whitehall Evening Post*."⁹ Defoe was also primary author of *The Mercator, or Commerce Retrieved*, a newspaper that argued for the resumption of trade with France and other European countries after the War of the Spanish Succession. *The Mercator* featured numerous essays that condemned smuggling between England and France. Edward Cave was a printer who founded the *Gentleman's Magazine* in 1731. He was also its chief contributor under the pseudonym Sylvanus Urban. Before entering the printing trade, Cave clerked for an excise man and then a timber merchant. His experience strongly influenced his harshly negative criticism of smugglers. Raphael Courteville was the main copy writer for the *Daily Courant* and its successor, the *Daily Gazetteer*, a pro-ministry newspaper founded in 1735 and subsidized by Prime Minister Robert Walpole. Courteville replaced William Arnall, a journalist who wrote for pro-ministry newspapers under the close personal direction of Robert Walpole.¹⁰ Courteville wrote under the pseudonym Ralph Freeman, typically signed R. Freeman.¹¹ He was a political journalist under the sponsorship of Walpole, like Arnall before him. As the leading author for two newspapers, he consistently discussed trade and the smuggling problems facing Britain. The authors contributing to the critical discourse on smuggling in newspapers often had a background in trade or were politically oriented. This was similarly true of the pamphlet literature, in which authors, even when anonymous, regularly noted their trading and manufacturing interests. Pamphleteers who contributed to this growing literature typically offered

⁹ Michael Harris, *London Newspapers in the Age of Walpole: A Study of the Origins of the Modern English Press* (Cranbury, N.J: Associated University Presses, 1987), 99.

¹⁰ Harris, *London Newspapers in the Age of Walpole*, 102.

¹¹ See John F. Speer, "The Identity of 'Ralph Freeman,'" *Modern Language Notes* 67, no. 2 (February 1952): 118-120.

proposals to suppress or eliminate illegal trade and relieve honest merchants. Other pamphleteers wrote political tracts regarding legislation, variously criticizing or defending trade laws that were intended to stop smugglers. Printers, newspaper editors and proprietors, merchants, manufacturers, political authors, and economists all contributed to a growing critical discourse on smuggling, frequently mentioning and counteracting the contemporary belief among common people who did not see illegal trade as a significant offense.

Print in the eighteenth century was growing in volume and in political and cultural significance. Printed works proliferated in England and, after the Printing Act lapsed in 1695, newspapers multiplied quickly. The Printing Act of 1662 required strict licensing that allowed for a degree of government censorship of the press through selection of which printers would receive a license. The English newspaper press expanded rapidly after the final lapse of the Act and no similar system of government censorship emerged, though Stamp Acts, taxing printed materials, were enacted as an attempt to curb the growth of newspapers. Benedict Anderson identifies print (“print-capitalism” more specifically) to be a critical element in the evolution of nationalism in eighteenth-century Europe.¹² More important to this dissertation is his assertion that print-capitalism, alongside Protestantism, was largely responsible for the creation of “large new reading publics,” emerging in the sixteenth and seventeenth centuries, which propelled Lutheranism, Calvinism, and the Dutch struggle for independence from Spain.¹³ In England, reading publics were mobilized to create the Commonwealth of the Puritans. The English reading public had grown throughout the seventeenth century, and it was not just mobilized, it was eventually inundated with news and entertainment that shaped the way English speakers viewed the world. In the

¹² See Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, rev. ed. (New York: Verso, 2006), 37-46; Print-capitalism refers to Anderson’s idea that the nation is, in part, based on print-languages that “created unified fields of exchange and communication below Latin and above the spoken vernacular,” and these print-languages were refined, solidified, and endlessly reproduced by the mechanisms of capitalist publishing ventures, such as the newspaper press and book publishers. Anderson, *Imagined Communities*, 44.

¹³ Anderson, *Imagined Communities*, 40.

eighteenth century, the British reading public became more connected to the wider world, especially the British Empire, and was better informed about events outside of immediate localities than was possible before the commercialization of print. For someone in seventeenth or eighteenth-century London, the wider world could have meant the colonies across the Atlantic, or even towns just south in Kent. Reading publics developed perceptions of regions that many Britons would never have the opportunity to visit. Readers became familiar with the smuggling problem, which had political and economic implications, through a variety of print media throughout the century. Authors who contributed to the critical discourse attempted to convince the British reading public that smuggling was evil and those who engaged in it threatened the stability of empire.

Print culture of seventeenth and eighteenth-century Britain generally emanated from London, creating a shared intellectual space for the reading public in the English-speaking Atlantic world. British authors produced a mountain of written work in this period that often reflected or influenced the worldview of their readers. While most print culture originated in London, it quickly spread to British provincial presses and North American colonial presses. The reading public of the British Empire shared political content and information, with many of the news items in the colonies borrowed directly from London papers. Smuggling news, especially the more interesting pieces, made their way across the Atlantic to provide colonists with a sense of the violence and controversy attached to smuggling in Britain. Eventually colonists would be implicated in the imperial smuggling dilemma, particularly after the passage of the Molasses Act of 1733.

The rise of smuggling in the late seventeenth century coincided with an expanding print culture, especially after the dramatic expansion of newspaper presses following the Licensing Act lapse in 1695. Thus, smuggling was embedded in British print culture at a critical juncture when newspapers began to flood the reading public with daily information from all corners of the empire and actively shaped national identity through a shared worldview. Moreover, the British press was free from prior

government censorship, allowing a wide latitude of opinions to be freely printed and distributed.

Historian Jeremy Black argues that British press was among the freest in Europe, leading to an extensive discourse on a variety of political topics, including smuggling.¹⁴

Britain was a nation of trade in the eighteenth century, but it was also a nation of smugglers. Smuggling was depicted by royal authorities as a crisis throughout the eighteenth century, and Parliament enacted increasingly strict regulations and draconian laws to combat illicit trade. It is apparent that many British subjects did not see smuggling as a serious crime, or any offense at all, but there was a strong counter-narrative offered in print that cast smugglers as some of the worst villains in the empire. They were depicted as robbing the king of his revenue and stealing from honest merchants, who were consistently portrayed as the foundation of the empire. In the early nineteenth century, Charles Lamb viewed smugglers as honest thieves, and historians have noted this perception among sections of the population in the previous century. However, a more thorough examination indicates that smugglers received an overwhelmingly negative portrayal in British print culture of the eighteenth century.

The complexity of clandestine economic enterprise fostered this duality of perceptions of smugglers.¹⁵ There were numerous individuals who assisted in the transport and sale of untaxed or contraband goods, all of whom were considered smugglers by contemporaries. A variety of individuals could have been considered smugglers: a shipmaster sailing a cargo of French brandy from Dunkirk across the English Channel to Romney Marsh in Kent, a merchant in London who arranged for that cargo (from France), a farmer who planned to illegally ship his wool out of the country, or the men who

¹⁴ Jeremy Black notes that the United Provinces had the freest press at the end of the seventeenth century. See, Jeremy Black, *The English Press in the Eighteenth Century* (London: Routledge, 1987), 2-3.

¹⁵ In truth, the perceptions of smugglers were beyond a simple binary. It is impossible to know the many ways common people felt about the smugglers living and working among them. However, this dissertation will focus on their appearance in print and the negative depiction they received as a counter-narrative to the perceived acceptance of smuggling by large sections of the population.

physically ran the goods ashore and transported smuggled wares inland. All of these men, and sometimes women, were denounced as smugglers in print, but some were socially accepted. Andrews the smuggler, who brought untaxed goods to Parson Woodforde, was likely one of the men who helped run goods into the country and was clearly a respected member of the community (at least to Woodforde). Occasional smugglers running goods secretly and peacefully into Britain likely would have been tolerated or ignored by many communities. Merchants of good repute might be smugglers whose illicit activities would hardly garner public attention. Unusually low prices might be an indication of illicit trade, but that was not necessarily the case. However, smuggling was quite obvious when conducted by gangs. Smugglers frequently formed gangs in the seventeenth and eighteenth centuries to coordinate the running of untaxed or contraband goods, and often resorted to violence to protect their interests. Gang violence dominated reports on smuggling in newspapers and pamphlets, so that smugglers were cast as desperate criminals who threatened the safety of crown officers and innocent subjects. Over time this portrayal of smugglers escalated to the point that the gangs were described as terrorizing the subjects of regions where the groups operated, particularly in Kent and Sussex in the 1740s.

The British government responded to the growing smuggling crisis with attempts to suppress illegal trade with force, including expanded powers for the customs service to search for and seize smuggled goods, and for justices of the peace to condemn goods and bring smugglers to justice. Officers acted in concert with military regiments, often resulting in violent confrontations with smuggling gangs, which ensured that the smuggling crisis remained a persistent topic in newspapers, pamphlets, and magazines. Authors who wrote about industries affected by the smuggling trade, such as wool, tobacco, or sugar, offered a dismal economic millenarian view, wherein smugglers were seen as threatening the

most vital trades in the British Empire.¹⁶ Smugglers were condemned for strengthening Britain's greatest rival, France, and jeopardizing the trade of their fellow subjects.

Historians have long been concerned with smuggling, but often it has been a difficult topic to study. If operating carefully, smugglers left very little trace of their presence. Many historians have tried to estimate the economic importance of smuggling relative to the legal economy, though these efforts are hampered by limits in available sources. W.A. Cole sums up the dilemma, stating "although smuggling was certainly widespread, the problem of its precise extent, or even its probable order of magnitude, defies solution."¹⁷ Still, historians have attempted to provide a sense of the scale when a certain amount of economic data is available.¹⁸ Thus, the issue of smuggling in the eighteenth century is often approached as an economic or statistical problem. Smuggling represents an unknown variable in the economic equations of the time. There are, however, many other variables to consider. Which opinions regarding smuggling made it into print and were circulated in the growing transatlantic reading public? How were readers informed about smuggling in Britain and its colonies, and how might that have shaped their opinions? Were smugglers portrayed as the honest thieves, or were they the wretches that Samuel Johnson described? This dissertation examines the appearance of smugglers in

¹⁶ The phrase economic millenarianism used in this dissertation refers to the rhetoric consistently found in economic literature of seventeenth and eighteenth-century Britain. Authors complained of legal impediments to trade, competition from foreign industries, and the smuggling problem in Britain, all of which threatened to destroy vital British industries. Authors contended that the fate of the empire rested on their respective industries, especially in economic tracts on wool or sugar, and if the measures various authors proposed were not enacted by Parliament the empire would crumble as France or other rivals engrossed trade to themselves.

¹⁷ W.A. Cole, "Trends in Eighteenth-Century Smuggling," *Economic History Review* 10, no. 3 (1958): 395.

¹⁸ For more on the difficulty to quantify smuggling and the debate surrounding solutions to that problem, see Cole, "Trends in Eighteenth-Century Smuggling," 395-410; Hoh-Cheung and Lorna Mui, "'Trends in Eighteenth-Century Smuggling' Reconsidered," *Economic History Review* 28, no. 1 (1975): 28-43; W.A. Cole, "The Arithmetic of Eighteenth-Century Smuggling: Rejoinder," *Economic History Review* 28, no. 1 (1975): 44-49; and G.D. Ramsay, "The Smugglers' Trade: A Neglected Aspect of English Commercial Development," *Transactions of the Royal Historical Society* 2 (1952): 131-157; For examples of economic histories on particular smuggling trades, see Hoh-Cheung and Lorna Mui, "Smuggling and the British Tea Trade before 1784," *American Historical Review* 74, no. 1 (1968): 44-73; T.C. Barker, "Smuggling in the Eighteenth Century: The Evidence of the Scottish Tobacco Trade," *Virginia Magazine of History and Biography* 62, no. 4 (1954): 387-399; and Robert C. Nash, "The English and Scottish Tobacco Trades in the Seventeenth and Eighteenth Centuries: Legal and Illegal Trade," *Economic History Review* 35, no. 3 (1982): 354-372.

print to reveal the counter-narrative written for the British reading public on the smuggling crisis and the purveyors of that illegal trade. There is evidence that readers understood that a regional reputation for smuggling in print was politically damaging. The critical discourse on smuggling may have represented a minority viewpoint, but it influenced numerous aspects of eighteenth-century British society. Smugglers in print were portrayed as the scourge of England and then Britain for over a century because they threatened the imperial balance of trade and power by supporting rival empires. Some authors even suggested that British smugglers would assist France in an invasion of England. It is safe to assume that many readers primarily encountered smugglers through their representation in print. Historians have traditionally focused on community support of smugglers and have thereby fostered the simplistic notion that the British public (common people) did not regard smuggling as a crime. However, the counter-narrative in print contended smuggling was more damaging and morally depraved than many other serious crimes of the era. Smuggling was depicted as theft from the king and from fellow subjects, graver than highway robbery. Smuggling was even painted as a sign of spiritual depravity. Smugglers were often depicted as inhuman. Their sin was an evil that had to be rooted out.

The opposing perception of smugglers as heroes of the common people, and as honest thieves, has historical and historiographical roots. Fictional works and histories of eighteenth-century smuggling were popular throughout Victorian Britain. The smuggler archetype, the honest thief, and the crime itself were common themes in the Romantic period of British literature. Even before the close of the eighteenth century, Scottish authors, along with writers from southern England coastal regions, included smugglers in their works, softening their image in some cases. Charlotte Turner Smith's novel *The Old Manor House* (1794) drew on her experiences in southern England, living in Sussex and later Hampshire, and the work featured several characters who were servants but moonlighted as smugglers.¹⁹ Historian

¹⁹ See James Holt McGavran Jr., "Smuggling, Poaching and the Revulsion Against Kinship in *The Old Manor House*," *Women's Writing* 16, no. 1 (2009): 20-38.

Neville Williams notes that the Scottish penchant for smuggling and hatred of English duties “left their mark on Scottish literature,” and that smugglers were “celebrated in verse and prose.”²⁰ In Walter Scott’s *The Hearth of Midlothian* (1818), the narrative is propelled by the Porteous Riots, which were caused by the execution of a smuggler in 1736 in Edinburgh, and the work notes the Scottish proclivity for smuggling. Two of Scott’s other works, *Guy Mannering* (1815) and *Redgauntlet* (1824), also featured prominent smuggling characters.²¹ Dozens of authors in the first half of the nineteenth century seized on public interest with smugglers and wrote novels, poems, and dramatic works featuring them.²² These authors wrote of a bygone era, though it was not too far removed, as something quite different than their own, especially when it came to smuggling. The English novelist, George Payne Rainsford James, writing in his 1845 work, *The Smuggler: A Tale*, commented that “there was a grander roughness and daringness about...our rogues,” in the previous century than in his own time.²³ The Romantic literary reaction to the Enlightenment influenced this reconceptualization of smuggling, wherein authors recast smugglers’ rejection of elite economic orthodoxy and law as something almost heroic.

These works of fiction fulfilled a desire of the British reading public to immerse themselves in the organized crime of the previous century and read about the supposed honest thieves who conveyed their goods under the cover of darkness. Other authors sought to combat the romanticization of smugglers by correcting falsehoods and more accurately portraying those engaged in running goods, though some of the revisionists were guilty of romanticizing as well. The work of John Banks was typical of this early form of smuggling history. Like other historians of Victorian Britain, Banks relied on local

²⁰ Neville Williams, *Contraband Cargoes: Seven Centuries of Smuggling*, 2nd ed. (North Haven, CT: Shoe String Press, 1961), 92.

²¹ For in depth analysis of Scott’s use of smuggling characters in latter two novels, see Ayşe Çelikkol, “Free Trade and Disloyal Smugglers in Scott’s *Guy Mannering* and *Redgauntlet*,” *ELH* 74, no. 4 (Winter 2007): 759-782.

²² Authors from the British Isles, particularly in places where smuggling was common, regularly featured smugglers prominently in their works. The Irish playwright James Sheridan Knowles published *The Smuggler* in 1810, Irish novelist John Banim published *The Smuggler* in 1831, and London playwright and penny novelist Thomas Peckett Prest published *The Smuggler King* in 1844.

²³ G.P.R. James, *The Smuggler: A Tale*, vol. 1 (London, 1845), 3.

history, often recounted by elders in the community, to tell interesting smuggling stories from the previous two centuries. Banks was not as inclined to romanticize the age, claiming he was “of opinion that when the doings which I am about to relate are carefully considered, together with their baneful effects on society, no sane person would like to exchange this 1873 for the middle of the eighteenth” century.²⁴

Author John English wrote another history that focused on local tales from Kent that had gained popularity through newspaper publications, which he then compiled into a book. His *English's Reminiscences of Old Folkestone Smugglers and Smuggling Days* had all the characteristics of Banks's work, notably the title and origin, except he more willingly romanticized smuggling. He told readers he was going to share “a few stories of the stirring days of yore, when smuggling was rife,” though he referred to proper smuggling, “not the petty little attempts...which are dignified by the name of ‘smuggling.’”²⁵ For English, there was something grand about the “ancient” smuggling of the seventeenth and eighteenth centuries, particularly in his “native” Folkestone. Nineteenth-century historians and antiquarians shaped public views of smuggling that persist to this day.²⁶

²⁴ John Banks, *Reminiscences of Smugglers and Smuggling: Being the Substance of a Lecture Delivered at the Music Hall, Hastings* (London, 1873), 2.

²⁵ John English, *English's Reminiscences of Old Folkestone Smugglers and Smuggling Days, by an Old Folkestoner* (Folkestone, 1888), 1.

²⁶ Regional histories of smuggling that focus on the most interesting aspects of illegal trade remain popular. There is a wide range of scholarship contained in these works, however none of them are published by academic presses and at most they have a note on sources instead of any consistent citation format. Many of them are very well done, though they often do not meet the standards of the professional historian. The series from Countryside Books is excellent for a general history of smuggling in these regions. For examples of local and regional histories of smuggling, see Frank Graham, *Smuggling in Devon* (Newcastle upon Tyne: V. Graham, 1965); Kenneth M. Clark, *The Story of Smuggling in the Port of Rye and District* (Rye: Rye Museum, 1968); Geoffrey Morley, *Smuggling in Hampshire and Dorset 1700-1850* (Newbury: Countryside Books, 1983); Mary Waugh, *Smuggling in Kent and Sussex 1700-1840* (Newbury: Countryside Books, 1985); Stanley M. Jarvis, *Smuggling in East Anglia 1700-1840* (Newbury: Countryside Books, 1987); Graham Smith, *Smuggling in the Bristol Channel 1700-1850* (Newbury: Countryside Books, 1989); Frances Wilkins, *The Isle of Man in Smuggling History* (Blakedown: Wyre Forest Press, 1992); Neil Holmes, *The Lawless Coast: Smuggling, Anarchy and Murder in north Norfolk in the 1780s* (Dereham: Larks Press, 2008); Chris McCooley, *Smuggling on the South Coast* (Chalford: Amberley Publishing, 2012).

Henry Shore, the fifth Baron Teignmouth, went beyond local interest to write a broad history of smuggling in 1892, with greater detail devoted to the methods of both smugglers and the customs service. His focus on law enforcement is unsurprising. Teignmouth served as a Lieutenant in the Royal Navy and in that capacity worked with the customs service. He used his personal experience and access to customs records to write *Smuggling Days and Smuggling Ways*. Teignmouth wrote his fair share on the exciting stories that other early historians focused on, but his book was the first truly systematic review of smuggling in early modern Britain. Many other historians would follow in his footsteps to use the mountainous records of the Customs Office to write the history of smuggling in Britain and beyond. Teignmouth's primary focus was on the nineteenth century, his own era of service, but he spent significant time considering the origins of the smuggling problem. He wrote that the eighteenth-century smuggler, from "the old Free-trade days...was regarded, if not as the most respectable, certainly one of the most useful members of society."²⁷ Although some authors resisted the urge to romanticize the smugglers of that period, the temptation was too great for most who wrote in the late nineteenth or early twentieth centuries. The smuggler had become a legendary figure, a folk hero of the coasts who saved communities from unfair taxation and commercial restrictions, despite the violence associated with illegal trade.

Undoubtedly, smugglers enjoyed community support in some areas of Britain and the colonies in the eighteenth century. That support has led recent social historians to consider smuggling as a potential "social crime." The concept of "social crime" has been a significant feature in the historiography of smuggling since the 1970s. "Social crimes" were criminal acts supported by communities, or not seen as criminal, which represented a class-conscious challenge to authorities or

²⁷ Henry N. Shore, *Smuggling Days and Smuggling Ways; or, The Story of a Lost Art* (London, 1892): 189; His use of the phrase "free-trade days" refers to smugglers' view that they were simply free traders, rather than criminals.

the established social order.²⁸ John Rule defines “social crime” more simply as “a criminal action which is legitimized by popular opinion.”²⁹ Smuggling in eighteenth-century Britain had community support in some areas and certainly was a challenge to authorities. The social historian Cal Winslow argues that the activities of Sussex smuggling gangs in the 1730s and 1740s “can be seen as a variation upon what is known of eighteenth-century crowd activity.”³⁰ However, he notes that these smugglers did not fit the criteria to be considered “social bandits,” as described by historian Eric Hobsbawm.³¹ It is likely that most smugglers were not class conscious. Some were lower class laborers and others were middle class merchants. Hobsbawm also defined “social bandits” as defending traditional economies against encroaching capitalism, but many smugglers were an illicit aspect of the capitalist system. This was especially true of well-to-do merchants who organized and funded smuggling ventures from London. Nonetheless, Winslow contends the Sussex smugglers, who were mostly laborers, were accepted by communities, even defended or celebrated, and argues that “the smuggler was often a symbol of resistance, to the authorities in general, and in particular to the hated excise.”³²

Historians generally agree that smuggling in Britain was not a “social crime” as defined by Hobsbawm. In a study of eighteenth-century crime, historian Frank McLynn notes that “contraband had an ambivalent relationship to capitalism,” and that smugglers were generally not “disinterested

²⁸ Much of the debate on smuggling as a “social crime” in eighteenth-century England centers on Eric Hobsbawm’s conception of the “social bandit.” See E.J. Hobsbawm, *Primitive Rebels: Studies in Archaic Forms of Social Movement in the 19th and 20th Centuries* (1959; repr., New York: W.W. Norton & Company, 1965), 13-29.

²⁹ J.G. Rule, “Social Crime in the Rural South in the Eighteenth and Early Nineteenth Centuries,” *Southern History* 1 (1979): 139; John Styles gives a similar definition that hinges on community perception of the crime as legitimate, see John Styles, “‘Our traitorous money makers,’ the Yorkshire Coiners and the Law, 1760-83,” in *An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries* (New Brunswick, N.J.: Rutgers University Press, 1980), 209-210.

³⁰ Cal Winslow, “Sussex Smugglers,” in *Albion’s Fatal Tree*, eds., Douglas Hay, Peter Linebaugh, John G. Rule, E.P. Thompson (New York: Pantheon Books, 1975), 159.

³¹ The debate over smugglers as social criminals (social bandits or primitive rebels) has been a consistent feature of the historiography, with historians agreeing that they did not fit the criteria. See, E.J. Hobsbawm, *Primitive Rebels*; Frank McLynn, *Crime and Punishment in Eighteenth-Century England* (New York: Routledge, 1989), 196; James A. Sharpe, *Crime in Early Modern England 1550-1750*, 2nd ed. (London: Routledge, 2013), 200.

³² Winslow, “Sussex Smugglers,” 159.

defenders of a local way of life” or traditional economies.³³ Furthermore, he contends that the social range of individuals involved in smuggling prevents it from being a true “social crime,” practiced by elites and commoners alike. McLynn also points to smugglers’ proclivity for other forms of crime, such as highway robbery, as a reason they do not fit into the category of “social criminal.”³⁴ Historian Paul Muskett, who has written an extensive examination of eighteenth-century English smuggling, similarly indicates that there are problems with identifying smuggling as a “social crime.”³⁵ However, Muskett contends that other definitions of social crime, such as John Rule’s, fit smuggling more accurately. Historians who examine smuggling as a “social crime” often overlook critical contemporary attitudes or take them for granted. The presence of a significant amount of support and acceptance from local communities is difficult to dispute, but it is important to note that there were many acts of resistance against smugglers and that smuggling gangs used their numbers and threat of force to silence objection. This dissertation shows a counter-narrative to the perceived acceptance of smuggling, a war of words against illegal trade in print that emphasized the violence perpetrated by smugglers and informed the British reading public about a reign of terror that smuggling gangs unleashed on coastal communities. Whether or not smuggling fits modern definitions of “social crime” hardly mattered to eighteenth-century Britons or colonists. A wide range of commentators believed smuggling had community support. Newspaper and pamphlet authors responded with a critical discourse on smuggling to sway public opinion.

This dissertation examines this critical discourse and reveals an alternate public perception of smugglers. They were not local heroes or honest thieves to the authorities or honest traders and manufacturers in affected industries, especially those who enjoyed Parliamentary protection, such as wool producers. Historians such as Cal Winslow have been interested in the plebeian social origins of

³³ McLynn, *Crime and Punishment*, 196.

³⁴ *Ibid.*, 197.

³⁵ See Paul Muskett, “English Smuggling in the Eighteenth Century,” (PhD diss., Open University, 1996), 14-24.

many smugglers. While it is important to understand the smuggler, it is also important to understand those who felt victimized by illegal trade. Contemporary commentators depicted contraband as a threat to the entire British economy through the potential destruction of the sugar, tea, tobacco, and wool industries and the theft of royal revenue. Numerous historians have examined the economic importance of these smuggling trades, but many have overlooked contemporary discourse that heightened public concern over the growing smuggling crisis by emphasizing violence in southern England and the perceived decline of affected industries.

Recent historians of eighteenth-century British smuggling have ignored this counter-narrative because they rely largely on customs records, trials, statutes, and an array of economic data to determine the who, what, when and where of smuggling. These sources also reveal government concerns, many of which are reflected in other print media. However, only when studying print culture as a whole, including newspapers, magazines, pamphlets, and Parliamentary debates, does the scope of the smuggling counter-narrative come into view. Writers criticized smugglers harshly, as might be expected, but illegal trade entered political debate in ways that have not been acknowledged. This is particularly true concerning debates over legislation intended to stop illegal trade.

Anti-smuggling legislation expanded government authority throughout the late-seventeenth and eighteenth centuries. Historians of crime have noted the importance of these statutes on smuggling. Muskett, Winslow, and McLynn, for example, point to the 1746 Act of Indemnity as a critical point in the history of smuggling.³⁶ However, the historiography on the statutory framework largely ignores the reaction to the previous 1736 Act of Indemnity, particularly the dissent by Patriot Whigs and other commentators. These Acts offered indemnity to smugglers who turned themselves in to authorities for most smuggling crimes. However, the Acts also created severe penalties for those who refused the offer of indemnity or reoffended. By the Act of 1736, smugglers could be transported to North American

³⁶ See Chapter 3 for full discussion of the 1746 Act.

colonies for seven years. In 1746 they could be condemned to death for their first offense.³⁷ Parliament also placed strict limits on men gathering armed near the coast. Smuggling was viewed as a disease on the body politic that needed to be expunged, but many Britons feared that anti-smuggling legislation, especially in the 1730s, infringed on British liberty. The oppositional discourse surrounding anti-smuggling legislation is not as fully appreciated by historians as it ought to be. The political opposition to the Walpole ministry fueled critical discourse on legislation in the 1730s. However, Walpole's fall from power led to a dissolution of the united opposition to the ministry. Consequently, there was a notable decrease in resistance to the 1746 Act compared with that of the milder 1736 Act. The controversy over provisions in the 1736 Act of Indemnity was not based on a toleration of smuggling. There was universal acknowledgement from dissenting Members of Parliament and public commentators that the smuggling problem had become a crisis in some coastal regions. The problem needed to be addressed, but there was disagreement on the proper method to stop smugglers.

There were important exceptions to the near-universal condemnation of smuggling in eighteenth-century print culture. This was clearly illustrated by the public discourse over the Spanish "depredations" in the lead up to the War of Jenkins' Ear. Historians have accepted the centrality of contraband to the conflict.³⁸ Historians also agree on the importance of public sentiment pushing the country to war.³⁹ Both of these trends were evident to contemporaries and discussed in print. However, historians have not fully appreciated the role of smuggling in the discourse leading to war. That is, that

³⁷ The death penalty had been stipulated by the 1736 Act for a smuggler who was transported to the colonies and returned before the sentence was complete. The 1746 Act, however, contained provisions allowing smugglers to be condemned to death without trial for their first offense, provided that they did not turn themselves in after they had been proclaimed in contravention of the Act.

³⁸ See Vera Lee Brown, "The South Sea Company and Contraband Trade," *American Historical Review* 31, no. 4 (1926): 662-678; Ernest G. Hildner, "The Rôle of the South Sea Company in the Diplomacy Leading to the War of Jenkins' Ear, 1729-1739," *Hispanic American Historical Review* 18, no. 3 (1938): 322-341; and Harold W. V. Temperley, "The Causes of the War of Jenkins' Ear, 1739," *Transactions of the Royal Historical Society* 3 (1909): 197-236.

³⁹ See Temperley, "Causes of the War of Jenkins' Ear," 227-228; and Kathleen Wilson, *The Sense of the People: Politics, Culture, and Imperialism in England, 1715-1785* (Cambridge: Cambridge University Press, 1995), 141.

British smuggling into Spanish America was publicly winked at by many Britons because it was believed to bolster the British imperial economy at the expense of the Spanish. Moreover, Patriot Whigs and other commentators who desired war with the Spanish outright denied that British subjects were smuggling into Spanish colonies. These authors and politicians attacked any writer who suggested any of the seizures by Spanish *guardacostas* were lawful acts against British smugglers.⁴⁰ The opposition to Walpole exploited the patriotism of readers to silence ministry supporters and demand aggressive action against the Spanish. Eventually, some authors praised those British smugglers as valuable aspects of Britain's overseas commerce.

This episode illuminates an aspect of public sentiment on smuggling that historians have failed to appreciate. The duality of perceptions on smuggling becomes clear through a printed acceptance of the act, even a celebration and defense of illegal trade into Spanish America. It is not surprising that commentators who criticized English smuggling gangs had no issue with British merchants trading in Spanish America. This development in the discourse on the conflict with the Spanish does, however, support the historiographical consensus that many Britons did not believe smuggling was a crime. A minority of commentators still criticized British merchants for smuggling, despite knowing they would be denounced as unpatriotic by the opposition. For some Britons the criminality of smuggling was relative, for others it was absolute.

Moral relativism regarding smuggling is most clear when examining perhaps the two most famous smuggling episodes of the eighteenth century. The first occurred when the Hawkhurst smuggling gang tortured and murdered custom house officer William Galley and a state's witness, Daniel Chater, in 1748.⁴¹ The second was the short but infamous career of French smuggler Louis Mandrin in the mid-1750s. The murders of Galley and Chater have been a well-studied topic by academic historians. Cal

⁴⁰ The *guardacostas* were a fleet of ships intended to disrupt foreign trade into Spanish America. See Chapter 2.

⁴¹ Hawkhurst was a town in Kent from which this gang operated.

Winslow, especially, has analyzed this event and the aggressive investigation and prosecution led by the Duke of Richmond. Frank McLynn and Paul Muskett also examine the violence of the Hawkhurst gang in this period.⁴² However, it is important to conduct a more extensive examination of the violence of the 1740s from the public view evident in print culture, a perspective that has not received enough treatment. In some ways this perspective is obvious; thus, it has been overlooked. Of course, smugglers were demonized in print for the notorious acts of violence in this period. However, this was the culmination of a broader critical discourse on smugglers. Contemporary authors argued that the violence of the 1740s, and the torture and murder of Galley and Chater specifically, were the natural and fitting end to a smuggler's life. Commentators assured readers that this case, while seemingly extraordinary, was the inherent consequence of smuggling. They argued that smugglers dealt in violence and death as much as contraband. It was the strongest rebuke of the of the common belief that smuggling was no great crime.

This view was the ultimate expression of the counter-narrative on smuggling in the mid-eighteenth century. Louis Mandrin, however, was the converse. The historiography of British smuggling is mostly silent on Mandrin. He was, after all, a French smuggler operating in the southeastern French borderlands between that kingdom, Savoy, and Switzerland. Historian Michael Kwass discusses Mandrin's representation in continental papers, but does not address English sources.⁴³ Many newspapers copied articles from continental papers, such as the *Gazette d' Utrecht* or the *Gazette d' Amsterdam*, but the specific depiction of Mandrin in English newspapers needs study. Even when copied from external sources, newspaper printers made decisions on which articles would be published from European news. Kwass reveals a deeply conflicted portrayal of Mandrin in the continental press. Some papers depicted him as a ruthless villain, others as an able and honorable commander. The situation was

⁴² McLynn, *Crime and Punishment*, 186-190; Muskett, "English Smuggling," 212-217.

⁴³ See Michael Kwass, *Contraband: Louis Mandrin and the Making of a Global Underground* (Cambridge, M.A.: Harvard University Press, 2014), 252-284.

quite different in the English press. Aside from a few critical articles and the occasional reminder that Mandrin had committed serious crimes, the smuggler was glorified and celebrated in England. This was justified through references to France's absolutist government, supposedly backward religion, and despotic methods of tax farming. Mandrin was shown, just as he intended, as a hero to the common people. The multiple British perceptions of smuggling become clearer when Mandrin is juxtaposed with the equally sensational stories of the Hawkhurst Gang of the previous decade. Mandrin was depicted as the honest thief that Charles Lamb would describe in the following century. The Hawkhurst Gang, on the other hand, were portrayed as dishonest, barbaric, and cruel.

Clearly, British perceptions of smugglers varied based on several factors. The most important factor was the perceived victim of illegal trade. Which country's revenue was diminished through loss of customs? Which industries were damaged by contraband smuggled against a prohibition or without payment of customs? British commentators seemed to side with the common people in their belief that smuggling was not a serious offense if smugglers broke foreign laws and withheld customs due to foreign governments. However, the same commentators were more likely to see it as a serious criminal offense, even bordering on treason, if smugglers broke British laws and avoided taxes due to their own king.

This aspect of the critical discourse on smuggling was a major component of the rising tensions between Britain and its mainland North American colonies in the decades before the American Revolution. After all, Prime Minister George Grenville's policies, which colonists found unacceptable, were formulated to increase government revenue and suppress the extensive smuggling of molasses and other goods. Some historians have assigned smuggling greater importance than others. John Tyler, for example, argues that smugglers in the Boston merchant community influenced revolutionary rhetoric through their pursuit of business interests that had been made illegal or heavily taxed by Navigation Acts, such as their trade in foreign molasses from the West Indies or manufactured goods

from southern Europe.⁴⁴ Historiography of the American Revolution is heavily focused on the period after the Seven Years' War, despite historians, such as Bernard Bailyn and Douglas Leach, locating the origins of that conflict well before the 1760s.⁴⁵ However, historians have not fully appreciated the influence of the critical discourse on smuggling relative to the tension between the British government and colonists in North America.

The Molasses Act of 1733 was more important to the rising political contention between Britain and its colonies than has been appreciated. The historiography of the Molasses Act and that of the American Revolution have had very little overlap. Historians have relegated the Sugar Act of 1764 to secondary importance in the saga of the revolution and the Molasses Act is seen as a mere footnote in the history of the Sugar Act.⁴⁶ The Molasses Act of 1733 led to an unrivaled colonial smuggling trade, though few historians have systematically explained this phenomenon. The 1733 Act was seen, both then and now, as a dead letter that was widely evaded. However, these acts of evasion were important. The Molasses Act made smugglers of many colonial merchants who could not or would not pay the new prohibitive duty on foreign molasses contained in the law. These men smuggled for three decades in contravention of the Act and joined the ranks of British smugglers in the critical discourse on illegal trade. Moreover, the critical British discourse on colonial smugglers contributed to the post-1763 English criticism of Northern colonists as potentially disloyal subjects, thereby intensifying the imperial crisis. Many Britons viewed colonists negatively and British authors described them in critical terms in a growing discourse concerning imperial subjects. Jack Greene addresses this phenomenon insightfully in

⁴⁴ John W. Tyler, *Smugglers and Patriots: Boston Merchants and the Advent of the American Revolution* (Boston: Northeastern University Press, 1986), 246-251.

⁴⁵ See Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, M.A.: Belknap Press, 1967); Douglas Leach, *Roots of Conflict: British Armed Forces and Colonial Americans, 1677-1763* (Chapel Hill: University of North Carolina Press, 1986).

⁴⁶ For example, see Edmund and Helen Morgan's treatment of the Sugar Act in their work on the Stamp Act Crisis, Edmund Morgan and Helen Morgan, *The Stamp Act Crisis: Prologue to Revolution* (Chapel Hill: The University of North Carolina Press, 1953), 21-39.

his work *Evaluating Empire and Confronting Colonialism in Eighteenth-Century Britain*.⁴⁷ He contends that Britons developed a critical perceptions of colonists through a consistent and prolific discourse.

Colonists as smugglers, created a uniquely concerning perception of colonists as possibly dangerous subjects who threatened the imperial economy. The British government was focused on fostering the economic utility of the colonies. The economic philosophy of the empire dictated that the wealth created by colonial economies needed to center in Great Britain. The Navigation Acts were meant to ensure that dynamic. Colonial smugglers posed a unique problem for this imperial system. They undermined the authority of Parliament, as did domestic smugglers, but unlike their counterparts in Britain, colonial smugglers contributed to the potential economic independence of the colonies. This concern was expressed in Parliament and in the related public discourse, though it has been too often neglected by historians.

Annie Tock Morrisette argues that the British government understood the danger of colonial smuggling, but only after the rebellion in the colonies. She shows a change in discourse by crown prosecutors in smuggling trials at the Old Bailey after the American Revolution. Morrisette argues that the British government recognized the “revolutionary potential of smuggling” in relation to the American Revolution because illicit traders brought into question “the government’s right to taxation” and because illegal trade had the “ability to unite members of traditionally disparate classes in recognition of a common economic interest.”⁴⁸ The resistance to government policy was seen as an extension of the previous resistance to the Navigation Acts. Morrisette notes that crown prosecutors stopped describing smugglers as a threat to national order after the American Revolution. Rather, prosecutors emphasized defendants’ assaults on crown officers. There is evidence, however, that many

⁴⁷ See Jack Greene, *Evaluating Empire and Confronting Colonialism in Eighteenth-Century Britain* (New York: Cambridge University Press, 2013), 50-83.

⁴⁸ Annie Tock Morrisette, “‘They would have a law of their own’: The Discourse on Smuggling at the Old Bailey, 1736-1814,” (master’s thesis, East Carolina University, 2013), 4-5.

British commentators viewed smuggling as fostering independence well before the shift in discourse at the Old Bailey.

The British government became increasingly concerned with the Northern colonies' economy throughout the early eighteenth century. Parliamentarians expressed concern that colonists' trade with foreign sugar islands contributed to a growing economic independence and a destructive commercial competition between British Northern colonies and British sugar islands. Many British authors and politicians became increasingly dissatisfied with colonists regarding this commercial rivalry in the decades preceding the end of the Seven Years' War. Much of the tension arose from a growing perception of the colonists as smugglers, especially after the passage of the Molasses Act. What Morrisette sees in Old Bailey prosecutions played out in print for decades for the British reading public through pamphlets and newspaper essays. The colonists, of course, shared a print culture with Britain and witnessed their reputation diminished under the smuggling label. Colonists felt their interests had been disregarded compared to those of British sugar planters in the West Indies and they attempted to defend their trade with character attacks on sugar producers.

Seventeenth and eighteenth-century discourse on smugglers is a critically understudied aspect of the history of smuggling. Historians have examined the origins of smugglers, the economic importance of illegal trade, and the common popular perception of smuggling as a minor offense. However, this dissertation reveals a strong and consistent counter-narrative produced by countless British authors who believed illegal trade threatened the entire empire. Some of these authors even believed it should be a capital offense. The smuggling crisis shaped legislation that expanded British governmental authority, and consequently made many Britons question the government's power to strip subjects of traditional liberties. The right to bear arms and to be secure in one's property were in danger of government overreach as Parliament attempted to suppress illegal trade. The critical discourse on illegal trade illuminates a more complicated relationship between the British public and

smugglers than has been appreciated. While some subjects may have seen smugglers as the most useful members of their communities, as Teignmouth argued, many others thought they were among the most destructive and dangerous British subjects. The disparity between these perceptions indicates a vastly more complex social understanding of smuggling and its consequences than has been previously appreciated by historians of eighteenth-century Britain.

The Pernicious Practice: Smuggling, the Law, and Print Culture 1660-1730

England began the creation of an overseas empire throughout the tumultuous seventeenth century and the concomitant state-building processes affected millions of lives. As England, and later Britain, became an empire of trade, the government created a legal infrastructure to organize, direct, and restrict its imperial commerce. Parliament passed Navigation Acts to organize imperial trade and these laws joined domestic prohibitions, excises, and customs in the attempt to create revenue and regulate the activities of British merchants and companies to ensure English primacy in European commerce. These government efforts to channel overseas trade and to restrict and tax domestic commerce bred resistance from dissatisfied subjects and foreign merchants who wanted to maximize their profits and gain access to markets. In fact, the empire-building processes of most of Western Europe included various forms of economic protection. Tariffs both protected domestic commerce and raised government revenue. Prohibitions were meant to protect British industries from foreign competition, such as various prohibitions on wool exports. Protective tax schemes fluctuated throughout the eighteenth century. Expensive wars led to high duties in order to fund the conflicts, which created opportunities for illegal trade. International networks of smugglers sought to subvert these legal barriers. State building led to smuggling which in turn led to more state building as governments expanded their authority to suppress the growing contraband trade and continued to mandate legal and illegal commercial behavior.

The conflict between smugglers and the British government was protracted and often violent. Historian Geoffrey Morley indicates as much with this title *The Smuggling War* and historian Paul

Muskett detailed the regular use of the military against smugglers in the eighteenth-century.¹ The government sought to destroy an illegal trade through expansion of law enforcement, military intervention, and increasingly harsh penalties for those who transgressed an expanding corpus of statutes. For smugglers in eighteenth-century Britain, the stakes were especially high; they demonstrated that they were willing to risk imprisonment, temporary exile to overseas colonies, and even the gallows for the chance at a share of the profits made possible by prohibitions and high duties. For example, the prohibition on wool exports allowed smugglers to fetch higher prices from foreign merchants and the high duties on tea, sometimes rising to over one-hundred percent of the original cost, provided merchants the opportunity to undersell tea on which the customs had been paid.

The smuggling problem was not only a concern of the government and smugglers, but also of the British people. It affected the lives of millions throughout the eighteenth century. While only some Britons were smugglers, many more were complicit or purchased contraband goods. There were also those who were the victims of smugglers. "Honest merchants," as they were called, were often unable to compete with prices of merchants whose goods did not carry the same tax burden as their own. There were witnesses to crimes, often in mortal danger if they dared give evidence to officials. Moreover, there were entire villages that were overrun with smugglers, whether the populace supported their activities or not. The violence of smugglers was a consistent feature of eighteenth-century print culture, especially when confrontations between smuggling gangs and army regiments appeared in newspapers week after week. Printers constantly included contraband seizures, battles at land and sea, murders, and any interesting smuggling story they received. Meanwhile, authors of books,

¹ Geoffrey Morley, *The Smuggling War: The Government's Fight against Smuggling in the 18th and 19th Centuries* (Stroud, Gloucestershire: Alan Sutton, 1994); Paul Muskett, "Military Operations Against Smuggling in Kent and Sussex, 1698-1750," *Journal of the Society for Army Historical Research* 52, no. 210 (1974): 89-110; Paul Muskett, "English Smuggling in the Eighteenth Century," (PhD diss., Open University, 1996), 287-355.

pamphlets, and essays regularly attacked the practice (or the officials charged with stopping it) and offered their own solutions for ending the smuggling problem.

Smugglers and their trade became embedded in British print culture as symbols of roguery and wretchedness, but more importantly they were portrayed as the instigators of small-scale irregular warfare that defrauded the king and diminished the revenue. Smuggling was portrayed as a crisis at several points in the eighteenth century. However, there were those in the British public who would never encounter this type of smuggler, except in print. The smuggler archetype in Britain, something that would later be romanticized, was formed largely through the steady flow of Parliamentary Acts, pamphlets, books, magazines, newspapers, plays, political verse, and other written works that featured the clandestine traders. Smugglers had appeared in English print culture before the 1660s, though under a different name. Wool smugglers, called owlers, had dominated English concerns over illicit trade for centuries, though the late-seventeenth century brought new challenges as smuggling increased.²

Owlers, likely nicknamed for their methods of running goods ashore at night, were the first smugglers to be featured regularly in English print. They were the only smugglers who mattered because they trafficked what was viewed as the primary staple in English export commerce. Later, authors would comment on the smuggling problem by referencing “smugglers and owlers” as distinct groups because of the long association of owlers with a particular trade and their familiarity to readers. Smuggling was a recognized concern by the middle of the seventeenth century, but it would later grow and intensify significantly. Several factors contributed to the rise of smuggling in this period, not least of which were the expansion of government intervention through a combination of regulations, prohibitions, and taxes. Parliament created more smugglers with each Act by criminalizing certain trades and practices and placing high duties on goods in demand in the British Isles and the colonies.

² For an account of the history of smuggling in England through the seventeenth century, see Neville Williams, *Contraband Cargoes: Seven Centuries of Smuggling* (Hamden, CT: Shoe String Press, 1961), 1-92.

Smuggling and Legal Structure in the Seventeenth Century

The Navigation Acts of 1651 and 1660 restricted a variety of imports to English ships (or ships originating from the place where the imported goods were grown or manufactured) and established the policy of enumeration wherein specified goods produced by the British colonies could only be traded with England. These laws were created, in part, as a response to the proliferation of the Dutch carrying trade and an attempt to expand the English merchant marine. The Navigation Acts made smugglers out of many Dutch and English merchants, a trade at which they would prove adept. Parliament also expanded its economic protectionism to raise revenue and support English manufactures in the late-seventeenth century, further incentivizing smugglers on the English coast.³

The escalation of smuggling around the mid-seventeenth century can also be surmised through linguistics, specifically the etymology of the word “smugglers.” The word first appears in English print around this time according to the *Oxford English Dictionary* (OED). The OED identifies a proclamation by Charles II on August 9th, 1661 as the first known use of “smuckellors.”⁴ The king complained in the proclamation that the revenues were diminished “by a sort of leud people called Smuckellors, never heard of before the late disordered times, who make it their trade and profession, by many strange and new devices to steal and defraud his majesty of his customs.”⁵ This statement set a precedent for the way smugglers would be portrayed in print. They would be disparaged as the lower sort (“leud,” rogues, vile, etc.) and their “strange” methods were related as items of interest to the public, especially when bizarre, clever, or foolish. Smugglers were also regularly branded as thieves who stole from the king. Despite the existence of owlers for centuries before the royal proclamation of 1661, King Charles II

³ See Ralph Davis, “The Rise of Protection in England, 1689-1786,” *Economic History Review* 2, New Series, vol. 19 (1996): 306-317.

⁴ *Oxford English Dictionary*, s.v. “smuggler,” accessed May 9, 2020, <https://www-oed-com.ezproxy.uta.edu/view/Entry/182856?redirectedFrom=smuggler&>.

⁵ Royal Proclamation, King Charles II of England Issued August 9, 1661.

suggested they were unknown before that time, further emphasizing that they were not yet seen as the same class of criminals as owlers, but rather they represented a new development to a certain degree.

The proclamation is similar to later commentary on smuggling in several other ways. The king's declaration noted that there were significant numbers involved in smuggling ventures and he acknowledged the problem of government corruption in defrauding the revenue. The proclamation also emphasized the violence committed by "head strong and malicious people, who in a violent way by open force with clubs, swords, and other weapons, convey and carry away uncustomed goods," as well as assault officers to take back goods that had been seized.⁶ The violence associated with the smuggling gangs of the eighteenth century, particularly in the 1730s and 1740s, was already being publicly addressed by the king.

The king's distinction between "smuckellors" and the various other individuals involved in the smuggling, transport, defense, and sale of uncustomed goods, could have been an intentional reference to the Dutch smugglers involved in the running of contraband. The OED suggests that the word smuggler originated from Low German or Dutch, "*smukkeler*" and "*smokkelaar*" respectively.⁷ The Dutch would continue to be perceived as some of the primary perpetrators of illegal commerce into England throughout the eighteenth century, especially during the rise of Ostend, a significant port northwest of Dunkirk in modern-day Belgium, as a commercial outlet due to the decline of Antwerp, Ypres, and Tournai.⁸

The proclamation of 1661 was part of a series of actions by the English government to combat the growth of smuggling. Together these measures represent the beginning of concerted government

⁶ Royal Proclamation, King Charles II of England Issued August 9, 1661.

⁷ *Oxford English Dictionary*, s.v. "smuggler," accessed May 9, 2020, <https://www-oed-com.ezproxy.uta.edu/view/Entry/182856?redirectedFrom=smuggler&>.

⁸ See Gerald B. Hertz, "England and the Ostend Company," *The English Historical Review* 22, no. 86 (1907): 255-279; Paul Muskett, "English Smuggling," 68-77; Antwerp could not use seaborne vessels on the Scheldt River as a stipulation of the Treaty of Münster, allowing for the rise of Ostend.

efforts against smuggling through the extensive codification of commercial regulation, thereby clearly distinguishing smugglers from fair traders, and magnifying state authority to pursue those involved in the smuggling trade. The first piece of legislation in this series, *An Act to prevent Frauds and Concealments of his Majesty's Customs and Subsidies*, was passed in 1660 and allowed individuals to obtain a warrant to enlist the help of a law officer to search buildings where they suspected uncustomed goods to be hidden.⁹ The law stated that information had to be given under oath identifying the location of the smuggled goods. An informer would actually be liable for damages and would be charged with trespassing if no seizure was made.

In 1662, Parliament passed another Act to prevent smuggling and the many frauds perpetrated by merchants to avoid paying duties on imported goods. One of the key clauses was an update to the search capabilities of persons, empowering officers of the customs, or rather “any person or persons, authorized by Writ of Assistance...to take a constable, headborough or other publick officer” to search for smuggled goods.¹⁰ This Act removed the requirement of an oath of information that appeared in the 1660 Act. This new general warrant, as opposed to a special warrant on oath of information, allowed officers to “go into any house, shop, cellar, warehouse or room, or other place, and in case of resistance, to break open doors, chests, trunks and other package, there to seize” uncustomed goods.¹¹ Parliament enhanced the authority of officers of the customs (technically the Exchequer by changing the nature of the writ, but customs agents were the recipients of these warrants) by granting them discretion in their search for contraband goods. The law also broadened the power of search by listing potential hiding places an officer could break into in the course of their search, whereas the original law only gave the authority to “break open such houses” where goods were hidden.¹² The writs were issued to an officer

⁹ 12 Car. II c.19.

¹⁰ 13 & 14 Car II c.11 § 5.

¹¹ *Ibid.*

¹² 12 Car. II c.19.

without specific information, and it remained “effective during the reign of the king in office when it issues, and for six months after his death.”¹³ Officers who held these writs were not burdened with the need for informers, who were already scarce, or with the delay of having a special writ issued, which could allow smugglers time to move the goods to a new location.¹⁴

The growth of smuggling gangs in England was also made apparent in this Act, though historians have mostly focused on their activity in the 1730s onward. Neville Williams did note, however, that by 1700 “organized gangs waited on the beaches of Kent and Sussex” to export wool and import tea and brandy.¹⁵ The 1662 Act shows that gangs were already a problem and required serious attention, stating that “officers of the Customs and their deputies, have been hindered, affronted, abused, beaten and wounded, to the hazard of their lives...by armed companies and multitudes of men,” who then take their smuggled goods “by force and violence, as well by land as by water.”¹⁶ A relevant account comes from the spring of 1664 when Captain John Strode wrote to Member of Parliament William Prynne that groups were smuggling wool out of Sussex with the help of spies around Dover Castle. Strode claimed that the gangs had grown “so strong, that none dare meddle with them without five files of soldiers.”¹⁷ He further alarmed Prynne, stating that these owlers “have threatened and beaten most of the officers of the customs, and go disguised on dark nights,” so they cannot be recognized.¹⁸

Parliament consistently responded to the violence of the smuggling gangs by expanding and centralizing authority. Historian Paul Muskett notes that Justices of the Peace were imbued with

¹³ George G. Wolkins, “Writs of Assistance in England,” *Proceedings of the Massachusetts Historical Society* 66, third series (Oct., 1936-May 1941): 357.

¹⁴ American writs of assistance discussed further in chapter 5. For more on writs of assistance, see Wolkins, “Writs of Assistance in England,” 357-364; Joseph R. Frese, “James Otis and Writs of Assistance,” *New England Quarterly* 30, no. 4 (1957): 496-508; E.R. Adair and F.M. Greir Evans, “Writs of Assitance, 1558-1700,” *English Historical Review* 36, no. 143 (July 1921): 356-372; Maurice Smith, *The Writs of Assistance Case* (Berkeley: University of California Press, 1978).

¹⁵ Williams, *Contraband Cargoes*, 63.

¹⁶ 13 & 14 Car II c.11.

¹⁷ Great Britain, *Calendar of State Papers*. Domestic Series, of the reign of Charles II, 1663-1664, vol. 3: 531.

¹⁸ *Ibid.*, 531-532.

“increased powers in dealing with members of smuggling gangs and wider jurisdiction over seizures” throughout the eighteenth century, but the process actually began earlier.¹⁹ The 1662 Act enabled Justices of the Peace to commit offenders to prison, fine them up to £100, and keep them incarcerated until the Exchequer discharged them, with the intent to pressure smugglers to give evidence against others involved. Parliament also centralized the customs administration in 1671 by creating the Board of Customs Commissioners after a negotiation for a renewed tax farming system ended.²⁰ Before this development, customs collectors were sometimes agents of tax farmers, as the collection of certain taxes would be contracted to individuals or organizations throughout the history of the customs service. After 1671, the collector was a crown officer.

The smugglers’ trade continued despite the new crown officers posted in English ports, their power to search at will notwithstanding. Many officers continued to collude with smugglers for a share of profits, as could be seen in the language of the statutes. A Parliamentary Act in 1688, *An Act for the better preventing the Exportation of Wool*, opened with the assertion that wool and various related goods were being exported to France and elsewhere against prohibitions “through the remisness and negligence of officers.”²¹ It further warns, as would be repeated in laws and by various authors for the next century, that this smuggling trade, “if not prevented for the future, will tend to the utter ruin and undoing of their Majesties subjects and the great diminution of trade of this kingdom.”²² Authors who wrote about the smuggling problem employed the “ruin” of honest merchants and the decline of the kingdom’s trade as rhetorical strategies in an attempt to influence legislation. Smuggling would be

¹⁹ Muskett, “English Smuggling,” 46.

²⁰ Elizabeth Hoon, *The Organization of the English Customs System 1696-1786*(1938; repr., New York: Augustus M. Kelley, 1968), 7; Tax farming, or hiring out private tax collectors or firms, was practiced for some taxes at various points in England since the establishment of the customs service. An organized farm, or Great Farm, was established in the reign of James I. For an account of English tax farming, see Hoon, *Organization of the English Customs*, 6-7; A.P. Newton, “The Establishment of the Great Farm of the English Customs,” *Transactions of the Royal Historical Society*, Fourth Series, I (1918): 129-156.

²¹ 1 W&M c. 32.

²² *Ibid.*

portrayed as one of the greatest crimes of the era because it threatened the entire country while enriching its enemies.

Francophobia

The perception of smuggling as a critical threat to England was intensified by its association with France. The Act of 1688 notably mentioned France in its opening clause, stating that wool was being smuggled out of the British Isles “into France, and other parts beyond the seas.”²³ France was the arch-enemy of the English, a veritable boogeyman of English authors who utilized nationalist fervor and fear of the French to elicit concern in their readers over political issues. Whatever England lost in trade was quickly gained by France. Francophobia was evident in most laws against smuggling, though the Dutch made their fair share of appearances as well. This fear of French and Dutch trade shaped the fight against smuggling and it colored the perception of smugglers as England desperately tried to maintain a favorable balance of trade with their closest European neighbors. Smugglers were not the only thieves of government revenue who could be charged with impoverishing their own king and country, but they were portrayed as conspirators with a foreign menace that drained England of its resources and specie to fill French and Dutch coffers.

England’s legislative strategy for maintaining a favorable balance of trade rested on the Navigation Acts, protective tariffs, and prohibitions on certain foreign goods. Duties increased rapidly during the final decade of the seventeenth century, offering even greater incentives for smugglers to evade taxes and increase their profits. Economic historian Ralph Davis notes that Parliament passed new tariffs and raised duties substantially to pay for wars at the end of the seventeenth century. In fact, Davis shows that “the general level of duties on import trade was roughly quadrupled between 1690 and 1704,” and he argues that these drastic increases were more important than any alterations to

²³ 1 W&M c. 32.

British tariff policy in the eighteenth century.²⁴ He also claims that Parliament's protectionist tax scheme was founded largely on apprehension about the French and their growing economic strength.

Prohibitive duties on French goods were debated in the negotiations leading to the Treaty of Utrecht and Davis notes that British diplomats' arguments were still driven by "political attitudes to French power."²⁵

Fear of the French and their connection to smuggling would persist throughout the eighteenth century, even carrying over to the colonies. This fear took on unique relevance in the wake of the Glorious Revolution, a concern which lasted through the Jacobite rising of 1745. The English deposed James II who sought refuge in France with his cousin, King Louis XIV. The specter of a rebellion to restore the Stuart dynasty to the throne loomed over England. Smugglers further fueled that particular concern. Paul Monod, a leading historian of Jacobitism, elucidates the connections between Jacobitism and clandestine trade, which was associated "with several types of criminal behaviour, most notably highway robbery, smuggling and poaching."²⁶ Smuggling, of course, offered the Jacobites opportunities that the others did not. Information and conspirators could pass in and out of England, producing a rebellion planned in the exiled court of James II and executed in Britain through the assistance of smugglers. Britons held a constant, though exaggerated, fear of French invasion assisted by smugglers. This was not a completely groundless concern, nor was it limited to officials in the government; it became a public matter through the newspaper press.

On March 5, 1696 a report in the London newspaper *The Post Man* related to readers that "A messenger has seiz'd the owler who carried over the Duke of Berwick to France."²⁷ The Duke, or James FitzJames, was James II's illegitimate son who was a former military officer and was perceived as a

²⁴ Ralph Davis, "The Rise of Protection in England, 1689-1786," *Economic History Review* 19, no. 2 (1966): 306.

²⁵ *Ibid.*, 309-310.

²⁶ Paul Monod, *Jacobitism and the English People* (Cambridge: Cambridge University Press, 1989), 111.

²⁷ *The Post Man*, 5 Mar. 1696; Irregular capitalization schemes have been standardized in quotations.

notable asset for the Jacobite cause. As for the owler who took Berwick across the English Channel, an update appeared in the *Post Man* two days later identifying him as a man named “Hunt” and reported that he was “committed to the Gatehouse,” while others connected to James II were also taken into custody.²⁸ The smuggler gained instant notoriety by carrying Berwick to safety in France. Hunt’s story did not soon disappear from print and newspaper printers provided updates on the smuggler. The infamous Hunt, supposedly imprisoned in Calais, later appeared in conflicting reports in two daily newspapers, the *Flying Post* and *Post Boy*. A report in *The Flying Post* from November 12, 1696, stated that a source from Calais, a French port on the English Channel noted for smuggling, indicated “that Hunt the owler is not carried to prison...but walks daily with the merchants, and says, they are big with expectation of some notable design, which they whisper about, will suddenly be put in execution in England.”²⁹ A month later, two Jacobite conspirators who had been mentioned in a royal proclamation were being held in Calais, according to an article in the *Post Boy*, and “Mr. Hunt, the owler, is close prisoner there in a dungeon, and is only allowed bread and water.”³⁰

Newspapers at the Turn of the Century

The timing of Hunt the owler’s appearance in the *Post Man*, *Flying Post*, and *Post Boy* in 1696 was also important. English print culture entered a new era after 1695 with the foundation of the modern newspaper press. After the restoration of the Stuarts, the press in England was restricted by the Printing Act of 1662, which required a license to print newspapers. The Act, also known as the Licensing Act, lapsed in 1679, 1685, and again in 1695. It was not renewed after 1695. Printers were ready and several newspapers began publication that year. In fact, Richard Baldwin published the *Historical Account* the day after the final lapse and the *Flying Post* began publication three days afterward.³¹ Thus,

²⁸ *The Post Man*, 7 Mar. 1696 [Hereafter *Post Man*].

²⁹ *The Flying Post*, 12 Nov. 1696 [Hereafter *Flying Post*].

³⁰ *Post Boy*, 15 Dec. 1696.

³¹ Jeremy Black, *The English Press in the Eighteenth Century*, Routledge Revivals (London: Routledge, 1987), 8, <https://doi-org.ezproxy.uta.edu/10.4324/9780203832431>.

the story of Hunt the owl was featured in three of the first successful newspapers of this new age of the press where the eased restrictions led to an explosion of publications and a news hungry English public fueled their expansion.

News was now being circulated throughout the week by thrice-weekly papers, such as the *Flying Post*, *Post Man*, and *Post Boy*, and then daily after the *Daily Courant* began production in 1702.

Moreover, these were not short lived or insignificant papers. Jeremy Black relates an estimate of 44,000 newspapers being published and circulated weekly in 1704, and the *Flying Post*, *Post Man*, and *Post Boy*, published in London, “were to dominate the press for many years.”³² Readers were immediately introduced to the smuggling problem and shown that it could be overtly treasonous. The reading public could also begin following the careers of criminals, especially “notorious” owlers and smugglers, and absorbing the interesting or sensational stories that flowed in from the port cities of England, the continent, and beyond.

Smuggling, along with other crime news, was a popular feature of early newspapers. News items on illegal trade often involved violent confrontations, clever evasions, and heroic deeds performed by officers in the line of duty. Sometimes smuggling provided comic relief in the news section, as when smugglers were caught in compromising positions as they tried to get their contraband into port. Mundane news was also published on the subject. For example, news reports regularly contained information about the assignment of officers or transfer of anonymous prisoners, such as the piece in the *Post Boy* stating, “On Thursday two owlers were brought up from Romney in custody.”³³ However, even the relatively mundane transfer of prisoners could take on greater importance for the reader through repetition. Readers could notice trends in the news about owlers and smugglings being arrested

³² Black, *English Press in the Eighteenth Century*, 8.

³³ *Post Boy*, 16 Jan. 1697.

and transferred out of areas where smuggling was rampant; Romney Marsh in Kent and the surrounding villages appeared regularly in this regard.

A few years later, the editor of the *Post Man* included an article that summed up this issue, while indicating that marshes beyond Romney Marsh were a problem for the authorities. This time, it was reported that oaths were given that “140 packs” of wool were smuggled out of England through the “Marshes in Lincolnshire.”³⁴ The problem was much greater than witnesses’ oaths could indicate, as the writer assured readers. The report further related that the people of Lincolnshire planned to send a petition to Parliament for aid in the defense against owling in the marshes, “as is done for that of Romney, the chief owlers being from thence into these parts.”³⁵ The problem of Romney Marsh would have been clear to any readers who followed updates like these, which often showed Romney as the epicenter of the smuggling problem.

The British public could track smugglers from their exploits, arrests, and eventual trials in many cases. One of the first uses of the word “smugglers” in an English newspaper concerned an upcoming trial for several contraband men at Westminster Hall.³⁶ This trial was of particular interest for the notoriety of the case and the preparations it entailed. An update in the *Flying Post* noted the construction of scaffolding to seat MPs so they could witness the proceedings.³⁷ The preparations were significant, even being mentioned regularly leading up to the sensational political trial of arch-Tory Henry Sacheverell at Westminster Hall in 1710. Smugglers and their activities were popular news even during a major political crisis involving other issues. The large fines issued to the smugglers tried at Westminster Hall also show that they were seen as a serious financial threat. The report in the *Post Man* stated “we hear the smugglers, impeached by the Commons of England, who have pleaded guilty at the

³⁴ *Flying Post*, 14 May 1702.

³⁵ *Ibid.*

³⁶ *Flying Post*, 25 Jun. 1698.

³⁷ *Flying Post*, 28 Jun. 1698.

bar of the House of Lords” were fined £19,500, with one fined £10,000 alone.³⁸ Though this was an extraordinary case, it showed the gravity of the smuggling situation, especially in the eyes of the government that went to these lengths to prosecute and punish smugglers.

While customs officers in the ports kept vigilant for smugglers, their counterparts at sea watched for the countless ships involved in the overseas smuggling trade. Newspaper printers regularly related seaborne battles, seizures, and the movement of ships in the customs service, all of which they received news of regularly through letters from the port cities. Two newspaper reports from southwestern England illustrate this growing trend. A 1699 report in the *Flying Post* read that “the Custom-House Officers at Weymouth, had seized a small vessel off of Portland supposed to be an owler,” and in 1702 a report from Dartmouth noted “There are two small vessels of four or five guns each, arrived here from the coast of Ireland, where they have been in the quest of some owlers, that carry wool from that kingdom to France.”³⁹

Owlers and the Smuggling Problem at the Turn of the Century

Owlers were the dominant concern, as they had been for centuries, for authorities attempting to suppress smuggling at the turn of the eighteenth century. Owlers would remain a significant concern as long as England produced great quantities of wool and restricted wool exports. Newspaper readers became familiar with the problem, if they were not already, through reports like those above, but they were also treated to essays on preventive measures that various commentators believed would solve the issue. The heightened concern over owling at the turn of the century came from increased public awareness due to the Wool Act of 1699, its general failure, and Queen Anne’s speech that referenced the problem. The 1699 Act prohibited the exportation of Irish wool to encourage the production of English wool, but as with many other commercial policies it was difficult to enforce. The Irish smuggled

³⁸ *Post Man*, 5 Jul. 1698.

³⁹ *Flying Post*, 12 Aug. 1699; *Ibid.*, 26 May 1702.

their wool out of the island relatively unimpeded by the new statute. Queen Anne commented on the owling problem in her opening speech to both houses of Parliament, implying the general failure of the measures, stating that she hoped they would “find time to consider of some better and more effectual method to prevent the exportation of wool.”⁴⁰ The Queen’s address of course expressed ministerial concerns, but it also reflected the economic interests of the West Country, where wool industry leaders pushed for the prohibition.⁴¹

The editor of the *Observer*, John Tutchin, offered his thoughts on the Queen’s speech and the wool smuggling problem the following month. Tutchin was a radical Whig who was prosecuted multiple times for his controversial writings against the Restoration Stuarts, before and after 1688. His radical republican political ideology defined his writings and he applied that perspective to smuggling. For Tutchin, the smuggling problem could be attributed to a corrupt and ineffective government as much as the smugglers. The piece was written in the characteristic style of his paper, a conversation between a “Country-man” and the titular “Observer,” and it raised common points in public discourse with Tutchin’s personal flair. The Country-man began by claiming he had never sent wool to France while others grew rich from the practice. Therefore, he “did not care...if it were made felony” to smuggle wool out of England.⁴² The *Observer* responds with an assurance that wool smuggling is detrimental to the kingdom, calling it a “disease,” and emphasizing the French danger, or “crafty neighbors,” who “impoverish our nation” so they can further “enrich themselves.”⁴³ However, he argued that “the disease can only be attributed to the remissness of the officers” who are meant to prevent smuggling

⁴⁰ “The first parliament of Queen Anne: First session (1 of 3) - begins 20/10/1702,” in *The History and Proceedings of the House of Commons: Volume 3, 1695-1706*, (London: Chandler, 1742), 203-211. *British History Online*, accessed December 20, 2021, <http://www.british-history.ac.uk/commons-hist-proceedings/vol3/pp203-211>.

⁴¹ See Patrick Kelly, “The Irish Woollen Export Prohibition Act of 1699: Kearney re-visited,” *Irish Economic and Social History* 7 (1980): 22-44.

⁴² *Observer*, 11 Nov. 1702.

⁴³ *Ibid.*

“and the ignorance of their superiors.”⁴⁴ In addition to the established points of stoking fear of France and characterizing smuggling as a disease or illness, Tutchin’s newspaper was one of the first to level extensive criticism at government officials and policy for the smuggling problem. This was unsurprising, considering the style and political leaning of the publication.

Tutchin, like many government opposition writers who would follow, radical Whigs especially, turned the discourse to focus on crown officers and Parliamentary Acts. In this fictional dialogue he asked why the same officer was to be surveyor for Kent and Sussex while also responsible for prosecuting offenders, where he would gain “more by prosecuting one pack of wooll, than by seizing two.”⁴⁵ He expanded on his point by asserting that “a monopoly of offices, is as detrimental to governments, as are monopolies of commodities to trade”; the former enriches the individual and the latter impoverishes the nation.⁴⁶ Tutchin feared the growing powers of crown officers, whose ability to search, seize, and bring alleged offenders to trial was an overreach of executive authority. The sufferers in his discourse are the honest merchants and lower officers who lose out to smugglers and superiors who are well connected in the Tory government. The smugglers, in his view were only enabled by the corrupt government.

Tutchin espoused a radical Whig position that grew out of seventeenth-century political upheavals. Whigs feared government overreach and the erosion of English liberties, which they believed were secured by the Glorious Revolution of 1688. That event confirmed that sovereignty resided in the people of England and that the social contract between the people and executive government was contingent on honest governance for the benefit of the nation. These Whigs viewed the powers of crown officers with unease and radical Whig ideology influenced public discourse concerning the smuggling problem. Commentators who advanced this discourse acknowledged that smuggling was a

⁴⁴ *Observer*, 11 Nov. 1702.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

significant problem and accepted that it was a criminal act that should not be countenanced by the populace. However, radical Whigs often located the source of the smuggling problem in unwise legislation and corrupt government officers, in addition to unruly subjects who carried on illegal trade.

John Tutchin's writings were the subject of countless controversy for over twenty years as he criticized English monarchs and the Tory government for their mismanagement of the kingdom. Despite being arrested for seditious libel, he continued to write with a sharp pen and he contributed to the public discourse on smuggling. Owers and the French remained targets of his ire, but he also criticized the Irish for their wool smuggling. The illegal export of wool had increased there, despite the 1699 Act. Tutchin wrote that Irish smugglers would "ruin their country, trade and commerce; nay, enslave their own posterity for the sake of this filthy lucre."⁴⁷ He added, through the Country-man's response, that "the Irish-Papishes will beat out his brains," when discussing an official sent to Ireland to stop the owlers there.⁴⁸ Tutchin painted a grim portrait of smugglers; they were barbaric, evil, a disease of the body of the English people, and in league with England's "Popish" enemy. However, he also was an example of early Whig opposition to government efforts to suppress illegal trade. Eventually, the Patriot Whigs, who are best known for their opposition to Sir Robert Walpole's ministry, would echo some of these earlier radical Whig positions Tutchin expressed.

Essays and mock dialogues were not typical content for newspapers. Some newspapers would adopt the style of an opening essay, but most news came in short reports from letters sent to London from various ports and cities. These news reports, often no more than a short-to-medium length paragraph for any particular story, were printed in numerous newspapers throughout London, and eventually the empire. However, English, and later British, print culture was made up of much more than the daily, thrice-weekly, and weekly papers that flooded Britain throughout the eighteenth century.

⁴⁷ *Observer*, 11 May 1702.

⁴⁸ *Ibid.*

Well-read Britons would consume more than one type of print. Pamphlets, books, essays, and magazines contributed to the growing world of English letters and each advanced the counter-narrative on smuggling.

The radical Whig position Tutchin presented can also be seen in the 1701 pamphlet *The Mismanagements of the Customs Considered, as the only Means Promoting Clandestine Trade*. The anonymous author utilized the established discourse on smugglers and the problem of clandestine trade to further his arguments. The victims were almost universally the same: the fair trader, the monarch, and the English people. The fair trader was omnipresent in the discourse on smuggling; England was a kingdom of trade, and the anonymous author assured readers that fair traders were “the support of the realm” in time of war and “in times of peace are the support of the civil list, and their stocks the funds of his Majesty’s revenue.”⁴⁹ When the revenue was diminished, authors made sure to show that it was the support of the king or the funds of the country so the reader would understand the gravity of the crime.

The smugglers themselves made for compelling villains in print. They were described as evil men and women who would happily destroy the country to gain what profit they could. Many authors, including the author of *Mismanagements of the Customs*, described them as barely human, because no human being would so callously work toward the destruction of one’s own people. The smuggler, the author claimed, “is a creature bound neither by the laws of God nor man he robs *Cesar* of his due, and makes a nullity of human laws; he sacrifices his soul, conscience, honour, reputation, and all that is dear to mankind, to his insatiable avarice.”⁵⁰ They were, then, both godless and lawless, like barbarians and savages of other writings in this era, so what could be done to stop them from flouting the laws of England? The point being made was, of course, no law could bring them to reason, no counter measure would strike enough fear into them to stop their clandestine trade.

⁴⁹ *The Mismanagements of the Customs Considered, as the Only Means Promoting Clandestine Trade* (London, 1701), 4.

⁵⁰ *Mismanagements of the Customs*, 5.

While the smuggler was evil, the anonymous author criticized the Custom House as incompetent and harmful to the degree that it was equally damaging to the fair traders of England. While customs officers delayed the fair traders in the ports and at sea, the smugglers continued their trade unencumbered. The author of *Mismanagements of the Customs* suggested that there was a nefarious arrangement between the Custom House and wharf owners whereby they joined interest through a combination of offices, which meant there were fewer officers performing the required duties and the author suggested that the officers, Custom House, and wharf owners profited from this arrangement while slowing the process of customs collection. This "Combination" as he referred to the scheme generally, was a criminal group as much as the smugglers, because they diminished the revenue and harmed fair traders as much as clandestine trade. He used imagery to convey that they were just as inhuman as the smugglers, calling them "a monster of many heads."⁵¹ The author asked "whether those men who combine to lessen the King's revenue, would not do the same to shorten his life? For taking away life and livelihood are very near akin."⁵² The jump from bureaucratic mismanagement to something bordering regicide was dramatic, but it was a powerful use of the king as victim of both smugglers and those who defraud the revenue in other ways, especially officers charged with its collection.

Smugglers in Verse and on Stage

The smuggling problem and the discourse concerning it intensified throughout the eighteenth century. These early statutes, pamphlets, and newspapers formed the basic conception of the smuggler in print. The perception of the smuggler emerged as an evolution of the owler (owlers were, of course, smugglers) throughout the late-seventeenth and early-eighteenth centuries. Smugglers and owlers began to appear in verse and drama by the turn of the century, showing that they were already

⁵¹ *Mismanagements of the Customs*, 11.

⁵² *Ibid.*

recognizable characters to the English people. Smugglers had not yet been romanticized in print, so smuggler characters in English theater were formed out of the established conceptions late seventeenth century. *The Constant Couple, or, A Trip to the Jubilee* (1701), a stage play written by George Farquhar in the final years of the seventeenth century, provides a view of how smugglers appeared in English theater. The comedy painted a somewhat dim portrait of London at the turn of the century. It was a city overrun with prostitutes and villains and filled with greedy, backstabbing people of every class. The cast of characters were, on the surface, supposed to be the better sort of people: a gentleman, a colonel, a Lady, and a merchant. However, they all show the qualities associated with the supposedly declining times, lying and scheming to get what they want.

The merchant, or Alderman Smuggler, along with his nephew, Vizard, were the true villains of the play, though almost every character takes a turn playing the knave and the fool. The smuggler's role begins when he sees his nephew in a seedy part of town and tells Vizard about a pending lawsuit. Alderman Smuggler complains that "the impudent rogue of a tide-waiter" accused him of smuggling "French wines in Spanish casks and has indicted [him] upon the Statute."⁵³ Alderman Smuggler's plight was drawn from current events and would be readily recognizable to London theatergoers. Playgoers or readers of the printed version would have heard of current national concerns, such as the protections against French goods as well as the conflict between smugglers and officers. The smuggler denies the charge of smuggling the wine but is revealed in a final climactic scene to be guilty.⁵⁴

The smuggler, then, was foremost the true villain of a play full of morally questionable people. Some of the characters could be redeemed, but it was the smuggler who received justice from Parliament in the end. The smuggler was not only an enemy to the king's officers in this view, but he was vindictive, vulgar, and childish. Moreover, as an Alderman he was presumably a respected member of

⁵³ George Farquhar, *The Constant Couple, or, a Trip to the Jubilee* (London, 1701), 2.

⁵⁴ Farquhar, *Constant Couple*, 50-51.

the community and his smuggling ventures were kept secret. The play thereby contributed to the existing conception of smugglers in English print culture. The play was also wildly successful. After opening in November 1699, *The Constant Couple* “had an unprecedented run of fifty-three nights in London and a reported twenty-three in Dublin in its first season.”⁵⁵ The overwhelming success of the play in its first runs made it a mainstay of British theatre in the eighteenth century, during which “it ran more than 400 times.”⁵⁶ Historian Shirley Strum Kenny further notes that the play’s popularity surged in the 1730s and 1740s, coincidentally during a surge in smuggling and associated violence. Audiences surely had a greater distaste for Alderman Smuggler as the century wore on when they could fully appreciate the scale of the growing smuggling problem. At the very least, audiences continued to have this caricature of a smuggler reinforced so that the idea of him as a British villain persisted throughout the century.

Smugglers and owlers also frequently appeared in political verse in the eighteenth century. Verse was regularly featured as a clever extension of the news, often repeating stories as entertainment by ridicule of some target. Smugglers and owlers were easy targets as professional criminals and consistently found their way into critical verse. One of the more notable examples came in response to the *History of the Kentish Petition*, a pamphlet written by Daniel Defoe. The Kentish Petition, presented in 1701, was a call by subjects in Kent for Parliament to pass bills of supply to aid England’s allies in Europe and to create a standing army to defend against a French invasion. The Whig petitioners were rebuked and arrested by the offended Tory majority Parliament, which deemed the contents of the petition seditious. Defoe and many other Whigs were outraged and presented the *Legion’s Memorial* to the Speaker of the House of Commons, Robert Harley. The *Memorial* demanded the release of the five

⁵⁵ Kenny, Shirley Strum. "Farquhar, George (1676/7–1707), playwright." *Oxford Dictionary of National Biography*. 23 Sep. 2004; Accessed 2 Feb 2021. <https://www-oxforddnb-com.ezproxy.uta.edu/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-9178>.

⁵⁶ *Ibid.*

Kentish subjects who had been imprisoned. The men were released and Defoe wrote his *History of the Kentish Petition* as a Whiggish account of the events surrounding the Petition, which itself contained Whig principles, and Defoe critiqued the actions of the Tory government.

The affair incensed Whigs and Tories leading to a barrage of published insults, such as a fifty-page anonymous response to Defoe that went through his *History* paragraph by paragraph to assault his Whig position.⁵⁷ Author Thomas Brown wrote a poem, *Advice to the Kentish Long-Tails*, which was added to the end of that anonymous pamphlet. The poem mocked the people of Kent, even in the title, which purported to give advice from the “Wise Men of Gotham,” a town inhabited by fools according to English tradition. The poem advises the people of Kent, in effect, to mind their own business and let Parliament decide the best course of action. Brown suggested through the poem that if the people of Kent truly feared France, they should end the smuggling trade:

We therefore advise you to lead sober lives,
To look after your Orchards, and comfort your Wives.
To Gibbets and Gallows your Owers advance,
That, that’s the sure way to Mortifie France:
For Monsieur our Nation will always be Gulling,
While you take such care to supply him with Woollen.
And if your Allegiance to Cesar’s so great,
All Smugling and Stealing of Customs defeat,
Or else all your Loyalty’s nought but a Cheat.⁵⁸

The petitioners had asked that Parliament reconsider their denial of King William’s request for money to create a standing army, but these lines point to the perceived disingenuity of this position. If their allegiance to the king was so great, then why had Kent become a consistent base for smugglers trading with the French? If they truly feared the French, they would not tolerate the owling trade that proliferated in Romney Marsh and throughout Kent. The English nation were made fools by the clandestine wool trade, according to Brown. The smuggling problem in Kent was so well known that it

⁵⁷ *The History of the Kentish Petition, Answer’d Paragraph by Paragraph* (London, 1701).

⁵⁸ Thomas Brown, *Advice to the Kentish Long-Tails, by the Wise Men of Gotham, in Answer to their Late Sawcy Petition to the Parliament* (London, 1701).

was fodder for whimsical political jabs, but more importantly it was used to identify the entire population of the county and discredit their political views. Smuggling was a stain on the reputation of entire communities when viewed from London, or anywhere with access to relevant publications.

Thomas Brown was not the only author to pen a political verse against the Kentish people for their smuggling and Whiggishness. An anonymous pamphlet, *The Modern Whig Dictator*, ridiculed Whigs and made a passing reference to the smuggling problem in Kent in a verse about the Kentish petition:

That they, poor Owlars, lay expos'd to France,
When we'd a gallant Fleet abroad for our Defence;
But if they'd any case to be afraid,
Twas least the Fleet should spoil their Owling Trade,
For other parts an Enemy so near,
As well as Kent, had equal cause to fear.⁵⁹

Again, the Kentish people are mockingly dismissed alongside Whigs because of the smuggling problem that plagued their coast. Their fear of a French invasion was derided because Kentish smugglers had supported the French wool industry.

Another anonymous author invoked smugglers alongside various rogues who ought to be hanged in a poem titled *A Hymn to Tyburn*, published in 1703.⁶⁰ The poem was a largely a criticism of the many Englishmen who were bankrupting the nation through frauds undercutting the revenue. It was a call to punish traitors to England who supported enemies in war, such as the French and Dutch. These traitors, the poet lamented, escaped the justice of the gallows. The poet named smugglers among the guilty and referenced complicit officers, suggesting that preventing the smuggling trade would be enough to fund the ongoing War of the Spanish Succession:

Encourag'd so, Men their old Crimes pursue;
Who get enough by one such Crime to buy off two.
Smuglers long practis'd in the Trade,
By what they've got, and what they've paid,

⁵⁹ *The Modern Whig Dictator: or, the Exultation: a Satyr* (London, 1702), 2.

⁶⁰ Tyburn, the famous location of the gallows in London, was a metaphor for execution used in eighteenth-century writings.

This mighty Secret know.
And shou'd but Truth the Matter clear,
A Train of Elders blest with Wealth,
One Third by Traffick got, and two by Stealth,
Wou'd in the List appear.
Wou'd Knaves in Trust but faithfully restore,
The Bribes they've taken heretofore,
To wink at Crimes, which to detect they swore.
The Sum and Int'rest of those Cheats,
Wou'd almost pay the Nations Debts,
And carry on the War.⁶¹

The poem calls for justice for the smugglers and officials who have defrauded the revenue, who have been able to acquire "English Lands with Foreign Gold."⁶² The author even turns his fury against John Tutchin, suggesting that he be hanged alongside them.⁶³ This was a satirical call for capital punishment to be doled out to all those who transgressed England's commercial laws, or other malefactors who wronged the country, but the author intended to make serious points about criminals who escaped justice. The poor suffered, sometimes at Tyburn, for their crimes, while many were able to escape justice because of the connivance of officials.

The War of the Spanish Succession and the Peace of Utrecht

Public discourse concerning smuggling during wartime assumed greater importance, particularly during war with France. Trade with the enemy was prohibited, so there were more reports of seizures by privateers and customs officers, though the general news about smuggling diminished as newspaper columns were often filled with reports regarding the war. However, as will be discussed in more depth in following chapters, smuggling with an enemy during wartime brought up unique concerns. Illegal trade, which was already portrayed as theft from the king, was then seen as something even more overtly treasonous. Illicit traffic was more difficult to identify during wartime; any ship could be filled with contraband since that classification was broad in the context of wartime commerce. Foodstuffs, for

⁶¹ *A Hymn to Tyburn. Being a Sequel of the Hymn to the Pillory* (London, 1703), 3-4.

⁶² *Ibid.*, 8.

⁶³ *Ibid.*, 11.

example, became potential wartime provisions for an enemy during open conflict. The ordinarily lawful trade of other nations became dangerous to England, and friendly or neutral countries had to contend with the navies and privateers of France, England, and other belligerents. John Tutchin addressed this topic in his *Observer*, suggesting a formal agreement between England, Holland, Denmark, and Sweden on what should be considered contraband (or which ships could be a lawful prize), during the War of the Spanish Succession.⁶⁴ He argued that measures taken by such an agreement would “break the measures of the smuggler... for every body knows the smuggling trade is carried on more in time of war than of peace.”⁶⁵ Trading with the enemy was, at least from the perspective of London, a more prolific trade than peacetime smuggling. Illicit trade with a wartime enemy provided a unique opportunity for smugglers. Legal trade avenues were closed so there was a strong demand and higher prices for trade goods if smugglers were willing to take on the risk. Smuggling to a wartime enemy, however, magnified existing concerns about the loyalty of illegal traders and, by extension, the regions where they operated.

The end of the War of Spanish Succession brought new issues of smuggling to the surface of British politics and the existing smuggling problem continued to plague British commerce. The treaties of the Peace of Utrecht, which ended the war, brought a new balance of power in Europe with Britain more securely at the top. Consequently, Britain was able to dictate the new balance of trade in its favor. In this regard, Britain received Spanish territorial concessions, such as Minorca and Gibraltar, and the *asiento*, which was the contract to sell enslaved Africans in Spanish America.⁶⁶ Britons were also focused on domestic trade. The war had disrupted normal trade for over a decade and smugglers had filled the commercial voids that lawful British traders had abandoned.

⁶⁴ *Observer*, 6 May 1702.

⁶⁵ *Ibid.*

⁶⁶ The *asiento* was a contract granted by the Spanish crown that allowed a country to be the legal provider of enslaved laborers to Spanish colonies in America. The *asiento* and British trade into Spanish America are explored in Chapter 2.

Potential trade with France after the war was an issue regularly featured in economic discourse and the threat of smuggling always appeared alongside the topic. One element of the Peace of Utrecht, which was a series of treaties that formally ended the multi-faceted conflict, was a Treaty of Commerce between France and England. This treaty produced passionate debate in Britain. Many Britons were appalled at granting France the most favored nation status, as Daniel Defoe noted when he expressed desire for Britons to read the treaty “with less resolution to dislike it beforehand.”⁶⁷ Defoe further supported the treaty in the *Mercator, or Commerce Retrieved*, a newspaper dedicated to supporting the resumption of commerce after the war.⁶⁸ Defoe painted a dim portrait of British trade in the *Mercator*, as did many other publications of this time, and argued that trade with France could improve the situation. The French currently received British goods, he reasoned, only by way of Dutch smugglers. Defoe suggested that this could be easily deduced from the fact that exports, particularly of wool, to Holland “increased and decreased according as the prohibitions of trade to France, Flanders, &c.”⁶⁹ If anyone was to profit by English wool, he argued, let it be the English in English ships, not foreign smugglers aided by owlers. Though he was famed for his writing, Defoe was also a businessman with varied interests in imports and exports and he favored a liberal trade regime.

Owlers and British Textiles

The debate over woolen exports, and the textile industry in general, was a long running issue that would persist throughout the eighteenth century. English economists and authors held the woolen industry on a pedestal and its greatest threats were seen as foreign competition and smugglers. William Symonds, an early eighteenth-century wool merchant and author, called wool England’s Golden Fleece in the title of his pamphlet that proposed numerous methods to stop smugglers in Kent, his home county. His proposals were littered with attacks on owlers, with whom the author stated he was very

⁶⁷ Daniel Defoe, *An Essay on the Treaty of Commerce with France* (London, 1713), 4.

⁶⁸ Charles Davenant and Arthur Moore also credited as contributors to the paper.

⁶⁹ *Mercator, or Commerce Retrieved*, 8 Aug. 1713. [Hereafter *Mercator*]

familiar from thirty years in the wool industry.⁷⁰ Symond's tract offered twenty-seven proposals to preserve the wool industry and contained a dire warning to readers about what was happening on the southern English coast. His pamphlet stated that owlers were already leaving Canterbury for Lincolnshire and elsewhere because of the increased presence of customs officers on land and at sea, showing that the violence and fraud associated with Kent would soon spread across the country.⁷¹ Naturally, a complex plan such as he proposed put considerable restrictions and requirements on wool producers to be borne mostly by fair traders. Symonds employed what would be a common rhetorical strategy, used consistently with proposals to end smuggling, arguing that his detractors were simply smugglers themselves. Those who would complain about a requirement to travel to register their wool, he suggested, would have travelled "three times further, if they were sure to get it over into France, for their private interest."⁷² Defoe similarly accused his detractors of being smugglers in multiple issues of the *Mercator*.⁷³ Symonds, however, went further in his critique of smugglers than most authors of economic treatises.

Symonds hated smugglers with a passion that rarely found its way into economic writing, owing to his personal experience as a "trader in wooll" that left him bitter and in fear of the ruin of his native region.⁷⁴ The well-to-do in some areas, he contended, were even "rascally fellows" who acquired wealth through smuggling.⁷⁵ He further stated that he preferred highwaymen to smugglers, claiming that he would spare the lives of ten condemned highwaymen if he could "hang the owler" instead.⁷⁶ Highwaymen, he reasoned, steal from "some few persons...but the owler and smuggler are such

⁷⁰ William Symonds, *A New-Years-Gift to the Parliament or, England's Golden Fleece Preserv'd, in Proposals Humbly Laid before this Present Parliament* (London, 1702), 9.

⁷¹ Symonds, *Golden Fleece Preserv'd*, 2-3.

⁷² *Ibid.*, 6.

⁷³ *Mercator*, 25 May 1714; *Mercator*, 19 Jun. 1714.

⁷⁴ Symonds, *Golden Fleece Preserv'd*, 9.

⁷⁵ *Ibid.*, 12.

⁷⁶ *Ibid.*

rapacious helhounds that they rob 1000's of families both rich and poor."⁷⁷ He added the many laborers who contributed to the production of English wool and other fabrics to the list of victims of smuggling, the honest merchants especially.

Symonds further assured his readers that they could trust his assessment of the evil nature and villainous practices of the Kentish smugglers because he had witnessed them in person. He related a story of trading in Romney Marsh, which he described as being overrun by smugglers and essentially under their control. Afterwards he apologized for his tangent on the smugglers, but argued it was necessary to acquaint "the world with what a base profligate, villainous crew of miscreants (assisted by a richer sort) this poor nation is abused."⁷⁸ While other authors cast smugglers as villains against the country, few were as damning as Symonds.

His points were otherwise in line with other treatises of the time. The 1706 pamphlet by John Haynes, a wool factor, was more typical in its tone, but similar in its content: an exaltation of wool as the dearest part of British commerce and a condemnation of foreign products and smugglers who would import it.⁷⁹ Author Thomas Knox similarly weighed in on the owling problem, focusing on the smugglers of Ireland. He opened his essay like many others, stating that wool was "the staple commodity of England, and the fountain from whence all our power and riches took their source," before arguing that the revenue was being diminished by clandestine trade.⁸⁰ However, he contended that the measures taken in "Kent and Sussex, being fam'd for sometimes the bloody scene of that pernicious practice," had forced the French to get their smuggled wool from Ireland instead.⁸¹ Yet, these pamphlets and book

⁷⁷ Symonds, *Golden Fleece Preserv'd*, 12.

⁷⁸ Symonds, *Golden Fleece Preserv'd*, 15.

⁷⁹ John Haynes, *A View of the Present State of the Clothing Trade in England, with Remarks on the Causes and Pernicious Consequences of its Decay* (London, 1706).

⁸⁰ Thomas Knox, *A Brief Account of the Woollen Manufacture of England, with Relation to the Prejudice it Receives by the Clandestine Exportation of Wooll from Ireland into France*, 2nd ed. (London, 1708), 1.

⁸¹ Knox, *A Brief Account of the Woollen Manufacture*, 2.

length essays were not the only published calls for change in the textile industry. Specific cases were argued in single page essays as well.

In 1707, *The Case of the Royal Lustring Company* was published, which warned of a rise in smuggling of French goods after Parliament passed a prohibitive act against some French textile imports, which superseded a law that forbade wearing French lustrings and alamodes, a fashionable silk fabric. The prohibition allowed seized garments to be sold at auction and worn in England, which set up the smuggling trade according to this paper. The origin of a garment could no longer be determined simply by its appearance in England, as it could have been legally purchased at auction. Several of these one-page essays were published in response to a proposed or enacted law and some of these short tracts elicited responses.

One such set focused on a proposed tax on English wrought silks. The original essay, *Some Reflections on the Project for Laying a Duty on English Wrought Silks*, published in 1711, argued that the proposed duty would lay too great a burden on poor silk weavers who could not afford it and who were only recently pulled out of abject poverty by the newly emerging English silk industry. This call to avoid the tax evoked a response that claimed, unsurprisingly, that such a call could only come from people who were “unwilling to have that clandestine trade prevented.”⁸² The argument that opponents of new duties and regulations were smugglers was a powerful one that was deployed throughout the century and it reinforced the concern that smugglers were not just violent criminals on the coast, but they were also well-educated merchants who defended their cause in print.

While wool and silk were the most common topics for essays on the clothing industry, other textiles received consideration in print. Calicoes were a primary public interest on several occasions, most notably when calico weavers rioted in London in 1697 and 1719. In 1697 weavers rioted outside of

⁸² *An Answer to a Paper of Reflexions on the Project for laying a Duty on English Wrought Silks* (London, 1711); See also, *Case of the Manufacturers and Retailers of Silk Goods, Under the New Projected Duty* (London, 1711).

the East India Company offices to protest competition from India's products and in 1719 they took to the street to attack people wearing calicoes and threatened further violence and destruction in London.⁸³ Parliament responded with a protective Act after the 1697 riots, which prohibited the importation of cotton cloth. However, the measure was deemed too little after the weavers' trade continued to decline, which many believed was a result of smugglers.

Daniel Defoe entered this debate in 1719 to state the case of the weavers in one of his many commentaries that discussed the smuggling problems facing Britain. In the introduction to his tract on the weavers he argued that they suffered from "the general calamity of trade" which plagued British manufacturing, that is, they were "oppress'd by the exorbitant growth of clandestine trade."⁸⁴ Defoe suggested prohibitions, both in the sale and use of calicoes, be enacted because of the great extent of smuggling. How else, he reasoned, could anyone ensure that a painted calico was made in Britain. If calicoes proliferated, the wool and silk industry would be destroyed, and these were the most vital to Britain, he argued. He further asserted that extensive smuggling of calicoes would be easy, as wool was more difficult to transport. To emphasize his point, he referenced Romney Marsh, notorious smugglers' den, "where all French goods are, as it were, as familiar to them as in France."⁸⁵ The Kentish proclivity for illegal trade continued to be a rhetorical device in economic arguments throughout the early eighteenth century, despite noted smuggling problems throughout the other coasts of Britain and Ireland.

Prohibiting calicoes out of fear that they might be smuggled was an extreme position and it met with detractors. Author John Asgill, who had already been publicly at odds with Defoe, argued that

⁸³ Jonathan Eacott, "Making an Imperial compromise: the Calico Acts, the Atlantic Colonies, and the Structure of the British Empire," *William and Mary Quarterly* 69, no 4 (October 2012): 731-732.

⁸⁴ Daniel Defoe, *A Brief State of the Question Between the Printed and Painted Calicoes, and the Woollen and Silk Manufacture, as far as it Relates to the Wearing and Using of Printed and Painted Calicoes in Great Britain*, 2nd ed. (London, 1719), 3.

⁸⁵ *Ibid.*, 21.

smuggled goods being passed as lawful goods could not be used as an argument for prohibition. In fact, the argument, if extended, could be used as a justification for a prohibition against silk, whose interests Defoe was defending.⁸⁶ Asgill was accusing Defoe of making a disingenuous argument in his defense of the weavers. Nonetheless, the campaign to further limit the consumption of calicoes in Britain was ultimately successful, with Parliament passing a protective Calico Act in 1721, limiting consumption of calicoes mainly to the British colonies.⁸⁷

The issue of the proposed prohibitions was even more complicated than simply involving the wool, silk, and calico industries. Wool and silk manufacturers also called for restricting Scots and Irish linens if they could not put forward effective methods of ensuring they were not smuggled German linens. However, the wool and silk manufacturers admitted domestically produced linens should be protected as a home manufacture if it did not interfere with the staple commodities.⁸⁸ The heightened concern over smuggling affected entire regions and industries. Products of Britain became suspect because of their similarity to foreign products and any textile that competed with wool was a probable target for proponents of the “golden fleece” of the British Isles.

The wool and silk producers won their campaign with Parliament’s prohibition of wearing printed calicoes. However, the smugglers continued their trade. Concerned authors began to address smuggling even more directly in the 1720s as the competition from various imported textiles was legally prohibited. The result was a hyperbolic assault on the illegal textile trade using familiar rhetorical strategies that demonized smugglers, published in many cases by wool and silk manufacturers and merchants. James Digges La Touche wrote two pamphlets in 1727 that reveal the state of the smuggling problem in the wool trade, at least from the perspective of a concerned merchant. La Touche, who

⁸⁶ John Asgill, *A Brief Answer to A Brief State of the Question Between the Printed and Painted Calicoes, and the Woollen and Silk Manufactures: As far as it Relates to the Wearing and Using Printed and Painted Calicoes in Great Britain* (London, 1719), 12.

⁸⁷ Eacott, “Making an Imperial Compromise,” 732.

⁸⁸ *The Farther Case of the Woollen and Silk Manufacturers* (London, 1720).

published under the pseudonym Cheshire Weaver, was a poplin merchant and son of David La Touche, poplin maker and founder of La Touche Bank. He was, of course, deeply interested in the wool trade and its effect on the economy generally. His two pamphlets served as a warning about the state of trade and an optimistic outlook if smuggling were to stop.

La Touche's first pamphlet, which offered a pessimistic view of the current state of the wool industry, called smuggling "the pernicious and detestable practice," and invoked illness as metaphor, referring to it as "a mortal disease."⁸⁹ This was in line with pamphlets around the turn of the century, but smuggling was now the sole focus. Legal competition had been mostly eliminated and smuggling was elevated as the primary evil, a terminal illness afflicting the country. Without change, he warned, England would collapse in a generation. La Touche's view echoed the economic millenarianism that was common in wool industry treatises. Beyond that, England's failure would signal the further ascendancy of the French and the eventual failure of Protestant interest in Europe. The war on smuggling was a spiritual endeavor as well, according to La Touche, whose Huguenot family fled France after the repeal of the Edict of Nantes.⁹⁰ Smuggling may have been an economic issue at its core, but its connection to France imbued it with significance beyond the royal revenue. La Touche made note of other antagonists in the smuggling trade, especially Ostend after it developed a significant smuggling trade, though the primacy of the French stood out as it had in the overall discourse on smuggling.

Claudius Rey, a prominent silk weaver who had published a defense of the rioting silk weavers in 1719, further emphasized smuggling as a primary concern in a 1728 pamphlet. He suggested there were two categories of ills suppressing the silk trade in England: smuggling and debased or adulterated goods. Rey was no stranger to the power of print and rhetoric. Historian Jonathan Eacott notes that Rey had

⁸⁹ James Digges La Touche, *Excidium Angliae: or, A View of the Fatal Consequences Attending the Smuggling of Wool* (London, 1727), 3.

⁹⁰ A.M. Fraser, "David Digues La Touche, Banker, and a Few of His Descendants," *Dublin Historical Record* 5, no. 2 (December 1942-February 1943): 55-56.

previously made disingenuous arguments to support his positions when writing in defense of silk weavers.⁹¹ Rey began his work by negating his opposition, suggesting that anyone who would “make any frivolous and trivial objections against this scheme, they are the SMUGGLERS or their ASSOCIATES, or men that are misled and imposed upon by THEM.”⁹² He made the same assertions as writers who came before him, though he did away with any subtleties the others employed.

Rey’s writings were similarly filled with the economic and political pessimism that was frequent in the smuggling discourse. Like many others he saw the problems facing his industry as a metaphorical illness, likening it to “the great distemper and malady.”⁹³ But above all, smuggling was evil. He argued that his scheme would “cure...SOME VERY GREAT EVIL,” which he assured readers was ongoing, stating it was “manifest that that evil still goes on, by the many and frequent seizures made from time to time; and also by the several tryals which happen every now and then.”⁹⁴ Rey’s dramatic condemnation of smuggling was his attempt to counteract what he acknowledged was likely a more common view, that smuggling was not a grievous crime. He argued that some “infamous” public punishment was necessary, “because the cheating of the King’s Revenue is thought among mankind to be but a very small crime, and none at all by some people.”⁹⁵ His pamphlet was a part of an implicit debate in Britain, wherein authors attempted to convince the public that smuggling destructive to the empire. There were, however, those who agreed that smuggling was a growing evil.

Spiritual Pleas against the Smugglers

Archibald Campbell, a minister in the Church of Scotland who was most noted for a work on moral virtue, wrote *The Duty of Praying for Civil Magistrates* in 1728 and dedicated a significant portion of the work to the evil of smuggling. The duty to support magistrates and governors, he reasoned,

⁹¹ Eacott, “Making an Imperial Compromise,” 749.

⁹² Claudius Rey, *A Scheme to Settle and Establish the Silk Weaving Trade on a Solid Foundation* (London, 1728), xi.

⁹³ *Ibid.*, x.

⁹⁴ *Ibid.*, iv; *Ibid.*, 16-17.

⁹⁵ *Ibid.*, 23.

naturally extended to a duty to pay taxes or to “render unto Caesar.” Yet, he complained that men did “not really seem to reckon it a thing in the least guilty or criminal,” to smuggle, instead they “congratulate themselves very cheerfully” upon successful runs.⁹⁶ Smuggling was beyond theft of the public revenue, he reminded readers, it was against the gospel and it was done “in *contempt and disobedience* to both God and Man.”⁹⁷ He went on to condemn the sins that went hand in hand with smuggling, such as lying under oath at the Custom House, and pointed to the potential for smugglers to bring in plague from abroad as a sign of god’s potential design. The appearance of the plague would have indicated God’s anger with Britain for not eradicating their illicit trade.

An anonymous author wrote a similar tract, though he focused solely on the religious and civic duty of paying customs and the sinfulness of smuggling. Like Campbell, the author explained that purchasing smuggled goods was sinful as well and suggests that “every one that has regard to his salvation to his salvation to abstain from it.”⁹⁸ These authors brought religious authority to the counter-narrative against smuggling and assured readers that the sin went beyond the smugglers on the coast and the merchants who supported illicit traffic. The guilt of smuggling was for every purchaser, receiver, and complicit person to bear. These authors may not have turned the country away from widespread smuggling, but they broadened the scope of public criticism of the practice. The majority of tracts that focused on smuggling had a tone of deep pessimism, a view that Britain would be reduced to ruins in short time by smuggling, and these religious pamphlets brought out a similar spiritual pessimism from which the country needed to free itself. The anonymous author summed up his message, saying his discourse intended “to free the nation from the mischievous effects of this reigning sin, and his fellow-

⁹⁶ Archibald Campbell, *The Duty of Praying for Civil Magistrates* (Edinburgh, 1726), 49-50.

⁹⁷ Campbell, *Duty of Praying for Civil Magistrates*, 51.

⁹⁸ *The Duty of Paying Custom, and the Sinfulness of Importing Goods Clandestinely; and of Buying the Goods that are So Imported* (London, 1731), 14-19.

subjects from the guilt and punishment of it,” though he also previously admitted, like Campbell, that he believed that it was the “prevailing opinion, that there is not much evil” in smuggling.⁹⁹

Smugglers in the News

Many Britons perceived the wool industry, and the textile industry generally, as paramount to the British economy, so smuggling naturally took on an inflated importance in regard to the state of trade in the seventeenth and eighteenth centuries. The steady flow of public discourse and the dire tone that characterized it stood as a testament to that. However, the economic and political tracts discussed above were generally aimed at the British public with an interest in trade. The smuggling problem became a more widely understood issue through the proliferating newspaper press, which continuously informed readers about new legislation against clandestine trade, violent gangs, the state’s expanding defense structure, its successes and failures, and foreign smuggling gangs that seemed to plague the continent as well.

Some newspapers featured essays that engaged in discourse typically reserved for lengthier publications. Daniel Defoe’s *Mercator*, for instance, commented extensively on the owling problem and the disadvantages of allowing Dutch smugglers to convey British goods to France. As noted previously, he supported renewed legal trade with the French, which was the express goal of the newspaper, but argued that British owlers were “mercenary and treacherous people” who “sell their country and commerce to the French.”¹⁰⁰ In that article he further railed against smugglers, who he called “destroyers of, and therefore traitors to, their country’s prosperity,” and he alleged that they were the ones who rallied political support at local elections against the proposed Treaty of Commerce with the French following the War of the Spanish Succession, because it undermined their owling trade.¹⁰¹ Defoe also warned his readers that the smuggling trade was expanding. He argued that Romney Marsh was the

⁹⁹ *The Duty of Paying Custom*, 22.

¹⁰⁰ *Mercator*, 8 Apr. 1714.

¹⁰¹ *Ibid.*

only place where wool was smuggled before the War of the Spanish Succession, and even then not to a large degree, but after the war he stated it was “an infinite, immense, incredible quantity that is carried away, as well from Kent, Sussex, the Isle of Wight, and the rest of the South-Coast of England, as from Lincolnshire, Norfolk, the Fens, and again in the North of England, and in Scotland, and above all in Ireland.”¹⁰² Despite his hyperbole, he showed readers that the smuggling epidemic in Kent was pervasive throughout the British Isles. His comments also reveal the impact of public discourse on perceptions of areas rife with smuggling, such as Kent. Smuggling was certainly common in other regions, but Kent had appeared more often in print as the source of smuggling. The region had become symbolic of the smuggling problem in the eighteenth century.

Most of the weekly, thrice-weekly, and daily newspapers of the era contained short news pieces from various parts of Britain and the continent. The constant barrage of news provided a sense of the extent of smuggling and the violence associated with the trade. Romney Marsh remained a prominent place featured in these articles, but it was joined by some of the other areas Defoe mentioned. However, Guernsey, Ireland, the Isle of Wight, Hampshire, and Sussex were the most frequent in the early decades of the eighteenth century. A report in the *London Journal*, for instance, related that the “vigorous prosecution of the smugglers,” had caused at least forty ships to be taken out of the smuggling service from Guernsey, despite the fact that “wine, brandy, and salt is so plenty in that island, that they know not how to dispose of it.”¹⁰³ The same article noted that an agent of the smugglers had been taken to Newgate under an action of £40,000 by the government. While some letters from British port cities indicated that the customs service was making significant headway against the smugglers, many other articles showed that the government’s attempts to suppress smuggling were not going well. Another report featured in the *London Journal* two years earlier stated that the smugglers in Sussex had

¹⁰² *Mercator*, 8 Apr. 1714.

¹⁰³ *London Journal*, 19 Feb. 1726.

“carried on their trade with pretty good success,” noting the illicit importation of “a considerable quantity of French wines and brandy.”¹⁰⁴ These smugglers seemed to successfully (and peacefully) run their French goods ashore, though many more became known in London and elsewhere because they failed (or succeeded through great violence).

There were small salt smugglers brought to Dartmouth,¹⁰⁵ weapons and textiles seized in Ireland,¹⁰⁶ and a Guernsey smuggler with salt, wine, and brandy that was captured after hovering off the coast of England.¹⁰⁷ Readers could see smuggling trends, in part, through the steady flow of articles like these that related arrests and seizures, with some indicating that the smuggling trade was slowing down. Many reports featured claims that smuggling had declined, and these news items credited new laws and the expanding defense measures, such as the commissioning of new ships or the placement of military troops. For example, the *Weekly Journal or Saturday’s Post* contained a report in 1721 that there was “a method proposed to the Lord Commissioners of Trade and Plantations, which it is not doubted will put a final stop to the smuggling trade.”¹⁰⁸ Years later a piece in the *British Journal* relayed a message from Portsmouth that several successful smugglers had been caught, their goods seized and auctioned, and that “all smuggling is at present at a stand.”¹⁰⁹ A letter from Portsmouth the following year said “the smuggling trade, being very much suppressed here, it is very seldom we hear of any considerable seizures made on these people,” though they did find around thirty half ankers of brandy on the coast, presumed to be left by smugglers.¹¹⁰ Similar news was sent from an unnamed port in Wales, “which was formerly noted for smuggling,” but had stopped the trade to the extent that ships

¹⁰⁴ *London Journal*, 25 Apr. 1724.

¹⁰⁵ *British Journal*, 28 Dec. 1725; *Daily Post*, 28 Dec. 1725.

¹⁰⁶ *British Gazetteer*, 25 Jun. 1726.

¹⁰⁷ *Daily Journal*, 2 Aug. 1726.

¹⁰⁸ *Weekly Journal or Saturday’s Post*, 11 Mar. 1721.

¹⁰⁹ *British Journal*, 6 Feb. 1725.

¹¹⁰ *British Journal*, 22 Oct. 1726.

were idle in the river with no other purpose.¹¹¹ Other factors could suggest the restriction of the smuggling trade, according to a news piece in the *Daily Journal* the smugglers of Devon were “all put to a stand,” as they were hiding out because of an “abundance of Exchequer writs out against them.”¹¹² The author also pointed to the high price of brandy as proof, which was likely a more conclusive indicator of a slow smuggling trade. The view of smuggling in the newspaper press was much more optimistic than the pamphlet literature as readers were informed about successful battles by law enforcement as well as arrests, seizures, and convictions. Additionally, these news articles were often reprinted throughout several newspapers, so the reach of any story was amplified beyond a single paper. This was especially true of more interesting stories that dealt with notorious smugglers, extreme violence, large seizures, or famous officers.

Smuggling was, and remains, a deeply interesting topic. Britons of the eighteenth century were witnessing the rise of an organized crime wave depicted in newspapers and through broader British print culture. Crime in general was an omnipresent aspect of newspapers. Highway robberies, assaults, and murders littered the pages of newspapers. Many arrest accounts were followed in subsequent issues with the sentences of the criminals and some with the punishments being noted. Smuggling was no different. Printers supplied their readers with accounts of the government’s attempts to stop smuggling that painted an intriguing portrait of the smugglers’ world. It was one that featured traitorous lords, gentry merchants, female smugglers, and more than a few officers working on the wrong side of the law.

Smugglers came from all backgrounds, as was evident from the newspaper coverage of them. One smuggler was noted as “a small smugler,” and “a poor fellow,” who was caught with salt off the coast of Devon.¹¹³ Others were apparently well-to-do, like the “two reputed, wealthy, smuglers” who

¹¹¹ *Mist’s Weekly Journal*, 28 May 1726.

¹¹² *Daily Journal*, 7 Mar. 1727.

¹¹³ *Weekly Journal or British Gazetteer*, 30 Aug. 1729.

owned the ship in which Lord North and Grey, a prominent Jacobite, escaped England in 1722.¹¹⁴ Like the smuggler Hunt from the turn of the century, these smugglers occasionally found their way into the news because of their Jacobite cargo, further connecting the two criminal groups in public print. Another story was reported in a letter from Poole about “one of the Stoaksbay gentry” who was caught smuggling.¹¹⁵ The man was caught after landing “21 hogsheads of French wines” near Poole where he was setting up trade, nearly forty miles from his home. The gentry merchant protested his innocence, though this was apparently not his first time. The author wrote, “it’s said the proprietor pretends, as he always does, that he’s no smuggler and that he brought the wines from his own house,” to wet and sand the casks.¹¹⁶ Nonetheless, the author of the letter expressed some doubt on the potential resolution of the case, despite the circumstances, suggesting that smugglers could get away with even that obvious of a case against them. When smugglers did receive a sentence or their property was seized, auctioned, or destroyed, it often made the news. One instance happened to fall on the anniversary of George II’s ascension, so the customs officers drank to his health and publicly burned a ship of a condemned smuggler.¹¹⁷

Such misfortunes for smugglers were typically celebrated in print. The loss of the smuggler was the gain of the fair trader, after all. There was typically even more enthusiasm when there were more details about the case, such as the wealthy merchant smuggling in a neighboring community or with notorious and violent smugglers as will be discussed below. Otherwise, the letters sent submitted from the ports, essays from copywriters, or printers themselves, lamented the sad nature of smuggling and criminals who engaged in it, especially when the story revealed the general depravity of the individual involved. One such article, printed in the *Universal Spectator and Weekly Journal*, related that there was

¹¹⁴ *London Journal*, 13 Oct. 1722.

¹¹⁵ *Weekly Journal or British Gazetteer*, 15 Aug. 1724.

¹¹⁶ *Ibid.*

¹¹⁷ *Daily Courant*, 16 Jun. 1730.

an altercation between some smugglers and customs officers before the contrabandists retook a cargo of brandy and rum from the officers. Afterwards, one of the smugglers, a man named Davey, described as “a sottish fellow” got into the liquor “and drank so much of it, that he died on the spot.”¹¹⁸ News stories were often very brief and direct, relating an event in barest details. However, authors sometimes editorialized to accentuate the depravity and roguishness of smugglers or the honor and bravery of officers. The article on Davey’s group of smugglers epitomized this. The author of the report noted that the smugglers from Goldsithney in Cornwall disguised themselves “by blacking their faces, and putting on womens apparel,” before beating the officers, who fought bravely but ultimately were outnumbered and retreated.¹¹⁹

Actual women were also featured with some regularity in articles on smuggling. Authors often emphasized that women could be as violent or desperate as men when it came to protecting their criminal gains or supporting other smugglers. One piece of news from near Leith outside of Edinburgh stated that an officer and his assistant were making their way to town with a seizure of “two horses loaded with rum and brandy” when they were confronted by “the women that kept a look-out for the smugglers.”¹²⁰ The women took back the smuggled goods and the author related “the officer was glad to get off with the loss of his cloak,” further emphasizing the violence of the encounter.¹²¹

In other instances, women were used by printers and authors to provide comic relief. The most notable example from the 1720s appeared in the *British Journal*. The interaction began as a normal encounter, with a routine seizure of brandy on the southern English coast between Poole and Weymouth, “a notable place for running goods, the very rendezvous of smugglers.”¹²² The article continued:

¹¹⁸ *Universal Spectator and Weekly Journal*, 13 Sept. 1729.

¹¹⁹ *Ibid.*

¹²⁰ *Weekly Journal or Saturday’s Post*, 13 Jun. 1724.

¹²¹ *Ibid.*

¹²² *British Journal*, 5 Jun. 1725.

The wife of Richard Card, one of the smugglers, willing to save a large cannister of tea, about twelve pounds weight, clapp'd it betwixt her thighs: The officer observing, when she walk'd, her legs were very stiff, and seemingly deprived of muscular motion, presently divin'd the good woman to grown pregnant with some prohibited goods, and that the hour drawing nigh, a speedy delivery would be necessary, he then lifting up the hem of her garments, and extending his arm towards the seat of generation, brings forth into the world and innocent cannister of tea, to the great diversion of himself and the spectators.¹²³

The article was clearly intended to be humorous, but it also showed the desperate conduct of smugglers was not limited to men. Mrs. Card had sacrificed dignity for tea and the story went on to be international news. The article was reprinted in various outlets, including the *Dublin Journal* and *New-England Courant*.

The Plague

Smugglers frequently appeared in newspapers in the first two decades of the eighteenth century, but the 1720s witnessed a significant increase in coverage. While some of these articles were meant to be entertaining or comical, the overwhelming majority portrayed smugglers as violent criminals, often as members of criminal gangs. Smugglers were depicted as belonging to a criminal class of society, inclined to vice and violence. Authors argued they were worse than robbers and thieves because their crimes were against the king as much as against the English people. These authors relied on nationalistic rhetoric, often expressed in language of patriotism, to sway popular sentiment against illegal trade. Newspapers, magazines, and pamphlets influenced the British reading public's perception of smugglers, and certain events, like the Great Plague of Marseille, put them in an especially negative light.

In 1720 bubonic plague struck the French city of Marseille and the disease threatened to spread as many thousands died in that city. Britain, which had an epidemic of the plague strike London in 1665, was especially concerned with another outbreak. Quarantine measures were created for incoming ships, but smugglers obviously ignored these regulations like any others. Parliament acted quickly and passed

¹²³ *British Journal*, 5 Jun. 1725.

an Act tailored specifically to stop smugglers from bringing in the plague. The law exhibits language similar to the pamphlet and newspaper literature concerning smuggling, showing the shared discourse between lawmakers and authors across a range of print media. The characterization of smuggling and smugglers which was presented to the British public was codified in law, enshrined in official acts instead of confined to the pages of special interest tracts on the wool industry or published in the ephemeral newspaper press.

The Act opened as did most others that addressed smuggling, stating that the existing laws had not been able to stop smuggling. It continued, “it being notorious that such infamous and pernicious practices are still continued in open defiance of the laws,” using perhaps the most common phrase in prevailing discourse to refer to smuggling in pamphlet literature, the “pernicious practice.”¹²⁴ The law amplified the complaints that had been seen throughout previous decades and emphasized the consequences of smuggling, namely “the great diminution of the publick revenues [and] the discouragement of honest traders.”¹²⁵ This law, however, was created to address something more sinister. The text of the law also expressed that the disregard of smugglers during the spread of the plague was “endangering the health and lives of many thousands of his majesty’s innocent subjects.”¹²⁶

The gravity of the situation was not lost on others, despite smugglers continuing their trade and ignoring quarantine rules. One author wrote *The Great Bill of Mortality: or, The Late Dreadful Plague at Marseilles*, the full title of which indicated that more than 80,000 people had died already and made direct comparisons with the plague in London which had left over 100,000 people dead less than sixty years before. London printers published a series of pamphlets warning Britons about the plague, informing them how to protect themselves physically and spiritually, all the while they read that smugglers threatened to bring the disease to Britain all the same, something Archibald Campbell

¹²⁴ 8 Geo II c.18.

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

mentioned in his writing a few years later. As the plague ravaged Marseille, news came that the government was considering action, with one report stating that a meeting took place to ascertain “the most effectual means to prosecute the owlers and smugglers, from whom they are apprehensive of the danger of importing the plague amongst us.”¹²⁷ The threat of the plague produced drastic responses, especially after a potential outbreak of that disease at Cherbourg in France, across from Poole. A report in *Applebee’s Original Weekly Journal* stated that warnings were sent to coastal areas of Sussex, Hampshire, Dorset, and Devonshire against allowing travelers from infected French areas. Military troops would also be sent to these areas, it continued, to ensure no ships entered into ports from places of possible infection. The article ended dramatically, stating “if any smugglers offer, by stealth, to come on shoar after such orders, they will be order’d shot to death, without mercy.”¹²⁸ The use of the military was nothing new in the fight against smuggling, but the language of the article certainly expressed the heightened concern that some Britons felt in regard to the plague.

Of course, this fear was not limited to Britons, or even Europeans; the plague was a concern for France’s global trade network and made transatlantic news in the British colonial press. In September 1721, the *Boston Gazette* featured a speech given by Samuel Shute, royal governor of Massachusetts Bay, which started with a call for arms against the threat from the Wabanaki Confederacy and then turned to the threat of contagion from France.¹²⁹ Like his counterparts in Britain, Shute warned that the best method would be “by putting a stop to the clandestine conveyance of French commodities into this colony.”¹³⁰ Bostonians were also informed of the severity of the situation through their newspapers, which reprinted relevant news from London and other European cities. The *Boston News-Letter* for

¹²⁷ *Weekly Journal or British Gazetteer*, 23 Sept. 1721.

¹²⁸ *Applebee’s Weekly Journal*, 26 Aug. 1721.

¹²⁹ The Wabanaki Confederacy was made up of Mi’kmaq, Maliseet, and Abenaki groups. The tension between New England colonists and the Wabanaki Confederacy, that was allied with France, soon broke out into the 4th Anglo-Abenaki War from 1722-1725.

¹³⁰ *Boston Gazette*, 28 Sept. 1721.

example, featured a reprint of the article that related the orders for military regiments to shoot on sight.¹³¹

The fear of contagion from smugglers obviously was not limited to British observers. Wherever there were limits on trade, there were smugglers to circumvent those regulations, a plague notwithstanding. Even in Marseille, when the disease had finally begun to dissipate, smugglers threatened to break quarantines to enter the city. A letter from the city in July 1722 reported that no one had become sick from the plague for six days, though the author feared reinfection from smugglers trading with Avignon. However, the author wrote that the people of Marseille hoped “that the severe example that will be made of the late smugglers, will be a warning to deter others from the like practice.”¹³² This piece of news was important to readers as an update on the dwindling pandemic, but international smuggling stories had a place in British newspapers in their own right.

Smuggling on the Continent

Smuggling was, in most cases, an international affair. It was inherently a transborder or transregional movement and every nation had their own smugglers with which to contend, as well as foreign merchants eager to penetrate restricted markets. Foreign smugglers were featured in British newspapers frequently, beyond the similarly regular occurrence of French and Dutch smugglers caught in England’s coastal waters.¹³³ Letters from France, Switzerland, and northern Italy provided steady updates about gangs of smugglers who inhabited the mountainous border region between the countries. France’s struggle with smugglers, especially salt smugglers, and the private tax collection organization *ferme générale*, or the “General Farm,” made for compelling news pieces in Britain. Britons could relate to the situation, as they had their own smuggling gangs with which to contend, but the

¹³¹ *Boston News-Letter*, 4 Dec. 1721.

¹³² *Weekly Journal or Saturday’s Post*, 21 Jul. 1722.

¹³³ Some British newspapers, such as the *Post Man* or the *Daily Courant*, focused on foreign news.

scale of the smuggling problem in France was depicted as significantly worse, if the printed accounts were to be believed.

In 1718 there were reports of “no less than 30,000 men” who were in the ranks of the salt smugglers in the borderlands between France, Switzerland, and Savoy, but two newspapers suggest the situation was more than an amassing of smugglers.¹³⁴ The report in the *Weekly Packet* suggested that it might be a plot of the King of Spain. Most accounts of smugglers in this Alpine region that reached the British press were less exaggerated, though they still seemed to show a larger scale of smuggling gangs than found in southern England. For instance, there were reportedly 1000 smugglers near Turin who gained the attention of the King of Sardinia. He sent 2000 men under one of his generals to stop their activities.¹³⁵ This region’s smugglers were constantly in the news for their violence, and the area would be the stage of some of the most dramatic events in the history of eighteenth-century smuggling.¹³⁶ One account from Turin related an instance when salt smugglers captured some soldiers, “killed three, one of whom they barbarously opened alive, taking out his heart and bowels, and then cut him limb from limb.”¹³⁷ These news articles were some of the most extreme cases, both in terms of the graphic violence and the number of smugglers, but newspapers regularly featured updates from this region throughout the 1720s, often for notable arrests made by French authorities.¹³⁸

News from northeastern France and the Low Countries, where smugglers established trade between Paris, Calais, Ostend and other smuggling entrepôts, was slightly more common during this decade. This was, in part, because these smugglers were more directly connected to smugglers in Britain. Newspaper printers were more likely to include updates on the state of smuggling in this region, while news from the Alpine region was typically limited to battles, arrests, and otherwise notable

¹³⁴ *Whitehall Evening Post*, 2 Dec. 1718; *Weekly Packet*, 6 Dec. 1718.

¹³⁵ *Post Man*, 23 Jul. 1720.

¹³⁶ See Chapter 5.

¹³⁷ *Daily Courant*, 13 Nov. 1724.

¹³⁸ *Daily Post*, 30 Dec. 1728; *Daily Courant*, 22 Jun. 1730.

events. One letter from Flanders noted the rise of smuggling in the region, which was enough to warrant a military intervention.¹³⁹ Various letters from Amsterdam consistently related relevant trade news from the area and smuggling was always tied to trade concerns between the Dutch and English.¹⁴⁰ However, newspaper printers more frequently reported the violent confrontations between smugglers and agents of the General Farm, who were often assisted by “archers,” a primitive Paris-based police force.

One illustrative account related that some French smugglers had illegally imported “linen and laces to the value of 40,000 livres” which prompted a commissary to enlist the help of some archers.¹⁴¹ The officers went to make an arrest and seizure, but two smugglers escaped and returned with a larger group of well-armed men. The smugglers, who outnumbered and outgunned the officers, overpowered them and locked them in a room before escaping with smuggled goods. French authorities were regularly reported to be outmatched by smugglers, though this was not always the case. One article, reprinted in the British colonial press, described a battle pitting salt smugglers against archers on the road between Paris and Meaux, where the smugglers surrendered after the skirmish left up to twelve men “killed or wounded.”¹⁴² Other articles featured both the violence and tactics of smugglers, a common feature of British news on their own smugglers. A report featured in the *Daily Post*, for example, related that four French smugglers were disguised as hunters while transporting some smuggled goods through a wooded area. The smugglers came across two men, including an officer, who were actually hunting in the woods. The officer questioned their right to hunt there and one of the smugglers shot him on the spot. The officer’s hunting partner shot and killed the murderer before another smuggler shot him in the shoulder and left him for dead. He recovered and a later search revealed some smuggled goods left behind in the woods.¹⁴³ While small-scale encounters sometimes

¹³⁹ *Daily Journal*, 19 Sept. 1728.

¹⁴⁰ *London Journal*, 12 Dec. 1730; *Echo or Edinburgh Weekly Journal*, 2 Dec. 1730.

¹⁴¹ *Daily Courant*, 21 May 1724.

¹⁴² *American Weekly Mercury*, 14 Oct. 1725.

¹⁴³ *Daily Post*, 25 Aug. 1726.

made international news, more commonly it was the large gangs that were featured, like the article on a battle between a French royal regiment of dragoons and smugglers during which the dragoons captured the leader of the smugglers.¹⁴⁴

Foreign smuggling news printed in the British press also focused on the changing legal structure against smugglers as illegal trade escalated and spread throughout Europe. The increased violence associated with smuggling led to more drastic measures to defend against illegal trade. French punishments, such as whips and galley sentences, were regularly reported in Britain. There were, for example, the Brittany clerks who smuggled tobacco and were sentenced “to be whipt, mark’d with the Flower-de-Luce [fleur-de-lys], and sent to the galleys.”¹⁴⁵ In 1729, both Rome and France escalated their fights against the smuggling menace. There was a report in the *Monthly Chronicle* from Rome that “a very severe ordinance had been published against all smuglers... by which they are deprived of all Ecclesiastical Immunities and declared rebels to the Holy See.”¹⁴⁶ The situation in France was more serious as was reflected in severe measures enacted to stop the smuggling gangs.

King Louis XV ordered more harsh punishments for smuggling gangs in response to the crime wave associated with illegal trade. The order, quoted at length in the *Daily Courant*, focused on smugglers traveling in armed groups. It stated that anyone convicted of smuggling “in a company or confederacy to the number of at least five, armed with weapons of any kind whatever, they shall suffer death.”¹⁴⁷ Individuals who were convicted of smuggling crimes with fewer than five people and without weapons would be sentenced to five years in the galleys as a convict oarsman in addition to a fine. Tax farmers who were in league with smugglers would be sentenced to death, as would smugglers who attacked posts of the General Farm. Under the order, a number of frauds could earn three years in

¹⁴⁴ *Daily Courant*, 22 Jun. 1730.

¹⁴⁵ *Daily Post*, 22 Aug. 1729.

¹⁴⁶ *Monthly Chronicle*, Jan. 1729.

¹⁴⁷ *Daily Courant*, 17 Sept. 1729.

gallies and women guilty of any of the listed offenses would “be condemned to whipping, branding with the flower de lis, banishment, &c.”¹⁴⁸ Smuggling in Britain and France, then, promoted similar concerns to the two governments and the press coverage followed similar trends. However, Parliament’s most severe actions against smugglers would be enacted in the following decades. The most prevalent articles in Britain also followed the government’s fight against smuggling, both the evolving statutory framework and the efforts of military units and customs officers, as well as the activities of smuggling gangs.

Smuggling and the Legal Structure in the Eighteenth Century

The metropolitan perception of smuggling as a serious problem intensified in the first three decades of the eighteenth century as a series of increasingly drastic laws were implemented and news articles related cases of escalating violence. Parliament’s legislative efforts in the fight against smuggling expanded during the reign of George I. An Act passed in 1746 listed twenty-four laws relating to the customs, many of them expanding the power of customs officers to combat illegal trade, reaching back to 1660 under Charles II just before his proclamation about the rise of smugglers. After an act passed in the 1690s, the list continues with an act passed in 1718, then one passed almost every year for the rest of the first Hanover’s relatively short reign.¹⁴⁹ These laws were influenced by the continued rise of smuggling and diverse petitions on behalf of various commercial interest groups and Parliament used Acts against smuggling to expand the authority of the central government. The Hovering Acts, the first three passed in 1709, 1718 and 1719 enabled customs officers to board vessels “hovering” off the coast of Britain, seize goods, and enforce payment of dues.

These Acts, in addition to expanding and codifying British authority and jurisdiction off the coasts, focused on particular concerns of Parliament and merchant communities. The second Hovering

¹⁴⁸ *Daily Courant*, 17 Sept. 1729.

¹⁴⁹ The list is incomplete as far as smuggling is concerned. For example, it does not include the First Hovering Act (8 Anne c.17), though it does include the Second and Third Hovering Acts. However, the list does provide a sense of the escalation of the legislative efforts under the Hanovers beginning in 1718.

Act, for example, was concerned with the running of brandy because of petitions from distillers and merchants from across the empire.¹⁵⁰ Its sections also included measures to prevent smuggling of rum, coffee, tea, cocoa, French silk, wool, painted calicoes, and various other “foreign goods.”¹⁵¹ The Act also reflected concerns that smugglers might move their operations to Ireland. Clearly, the multifaceted nature of smuggling led to these laws, which attempted to address problems plaguing several industries and locales. While these Acts became known as the Hovering Acts to some, because of their attempt to codify British jurisdiction over its territorial waters, they had many other areas of interest. After all, the government saw smuggling as the defrauding of the customs and the diminishment of the revenue primarily; the violence was a symptom of the pernicious disease. Thus, most of these laws were also filled with sections focused on various methods of fraud that had become prevalent.¹⁵²

Parliament defined their jurisdiction in the Hovering Act of 1719 as extending to ships within two leagues offshore and further empowering customs sloops to stop ships hovering off the coast of Ireland. Additionally, officers were imbued with expanded authority to enforce increasingly strict measures placed on distillers and merchants of various liquors, with brandy being the chief concern. Officers were allowed, by this 1719 Act, to enter “at all times, by day and by night,” (with an officer of the peace at night) “into all and every the said ware-houses, store-houses, rooms, shops, cellars, vaults or other places,” to check the quality and quantities of liquors to ensure they match the registry demanded by previous clauses of the same Act.¹⁵³ Physical resistance to this entry would be met with a fine of £50. The British government’s defense of private property had limits and smugglers influenced the debate on where Parliament would draw those lines.

¹⁵⁰ Leo F. Stock, ed., *Proceedings and Debates of the British Parliaments Respecting North America*, vol. 3, no. 338 (Washington, D.C.: Carnegie Institution, 1930), 396-404.

¹⁵¹ 5 Geo I c.11.

¹⁵² For example, see 6 Geo c.21 § i-vi, for measures enacted against frauds in malted corn.

¹⁵³ 6 Geo I c.21.

Parliament expanded central authority at land and sea with this act, including granting customs officers the ability to prosecute seizures in a similar capacity to officers of the excise. However, Parliament clearly acknowledged that expanded authority would not be enough in the battle against smugglers. There were too many individuals involved in illegal trade and smugglers were, in Parliament's estimation, too violent and desperate to be stopped by customs officers. This view was made clear by several sections of the law, one of which stated that groups of eight or more men who were armed and "tumultuously assembled" who were convicted of "forcibly hindring, wounding or beating" officers in their duty would be sentenced to transportation to the colonies for up to seven years.¹⁵⁴ Those who returned before their sentence was complete would be sentenced to death without benefit of clergy as was stipulated by a 1717 law prescribing transportation for convicted robbers, burglars, owlers, and other felons.¹⁵⁵

Parliament also used this Act to apply more pressure on criminal organizations. Setting harsher sentences for large groups was the first step, then offering clemency for informers was the second. Crown officers would not be able to match smugglers, so Parliament sought to take advantage of weak links in smuggling gangs; the law offered acquittal and a £40 reward per conviction if a smuggler could provide evidence against two or more of his accomplices.¹⁵⁶ If smugglers could not be persuaded to turn against each other through fear of punishment and this promise of reward, Parliament hoped the public would be more willing. The law offered the same reward of £40 to anyone who could provide evidence against smugglers, in addition to any other reward owed to them for a successful seizure and prosecution. The government attempted to mobilize the British reading public, employing private subjects to assist in the suppression of smugglers. This Act established Parliamentary strategy over the

¹⁵⁴ 6 Geo I c.21.

¹⁵⁵ *Ibid*; 4 Geo I c. 11.

¹⁵⁶ 6 Geo I c. 21.

following decades. Parliament sought to limit gang activity through severe penalties for gatherings of armed men and through rewards for information against smuggling gangs.

The measures against smugglers, particularly those focused on violent criminal organizations, became stricter as the situation on coasts and near rivers deteriorated. The aforementioned Act of 1721, which was aimed at preventing smugglers from bringing the plague to England, continued to clamp down on smuggling activities. The Act made it illegal for any rowing vessel of more than four oars to be used in “Middlesex, Surry, Kent or Essex, or in the River Thames...or within the limits of the Ports of London, Sandwich or Ipswich.”¹⁵⁷ Smugglers were increasingly bold in their activities, near London especially, and this Act sought to curtail some of their recent ventures.¹⁵⁸ The new law also further penalized the gathering of armed smugglers, reducing the number from eight to five and putting a new geographical restriction on them. Groups of five armed men within twenty miles of the coast who were caught with smuggled goods would be guilty of a felony and sentenced to transportation to the colonies in America for seven years.¹⁵⁹ This measure would be even further intensified later, causing outrage with some British subjects.¹⁶⁰

In addition to these increasingly strict measures enacted to suppress illegal trade, Parliament also aimed at efficiency in customs collection. Parliament passed Acts for particular trades to prevent frauds and to protect and encourage specific sectors of the economy, such as the Calico Acts mentioned above. Tobacco and salt smuggling, for instance, were perpetrated through a series of fraudulent drawbacks when merchants would lawfully reclaim a tax, or drawback, for exporting goods then illicitly smuggle them back into the country.¹⁶¹ Parliament also passed legislation that reflected the heightened concern with certain locales. Ireland was the subject of several laws, such as the Wool Act in 1699. The

¹⁵⁷ 8 Geo II c.18.

¹⁵⁸ See page

¹⁵⁹ 8 Geo II c.18.

¹⁶⁰ See Chapter 3.

¹⁶¹ 9 Geo I c. 21 (tobacco); 11 Geo I c. 30 (salt).

Isle of Man also had special restrictions placed on it because of its popularity as smuggling entrepôt, owing to a special arrangement it held with the crown in regard to customs collection on the island.¹⁶²

Violence and Organized Crime in the News

The laws enacted against smuggling in the eighteenth century reflect a variety of concerns. For example, many laws were enacted in response to efforts by strong lobbies for groups of merchants and manufacturers, such as distillers or textile weavers. Legislation was also driven by the violence on the coasts. Britons were able to follow both the expanding statutory framework on smuggling and, through the newspaper press, the organized crime wave that influenced it. As noted above, gangs were known to be operating at the turn of the century, but their operations and attendant violence increased dramatically in the 1720s. The press, of course, had already begun covering the exploits of smugglers.

The violence and general criminal activity of smugglers made for sensational news, and became a notable aspect of newspapers since their proliferation after 1695. Jail breaks were reported frequently throughout the early eighteenth century, sometimes only as a brief notice, though some came with descriptions of those who escaped. One such article, printed in the *Post Man* in 1707, stated that “3 owlers broke out of Dover Castle” three days before and gave a description of each.¹⁶³ The keeper of Dover Castle offered two guineas for each of them if someone were able to apprehend them.

Smugglers could break out of Dover Castle, and various prisons, with relative ease it seemed, as it happened regularly either by force or with the help of jailers. In addition to forceful rescues of their compatriots, smugglers often violently resisted anyone opposing them, whether it was officers or private subjects. An instance of the latter was reported in 1714 from Kent after five owlers attempted to smuggle wool out of the country. According to the account, the owlers brought wool from a local merchant, loaded it on their horses and made for the coast, but they were “oppos’d by the country,

¹⁶² 12 Geo I c. 28; Customs in the Isle of Man were the prerogative of the Earl of Derby and after 1736 the Duke of Atholl, who farmed out the privilege. These were, unsurprisingly, not strictly collected.

¹⁶³ *Post Man*, 25 Nov. 1707.

that rose upon them, to obstruct their passage.”¹⁶⁴ The owlers fought the people who tried to stop them and “knock’d one of their opposer’s brains out” and escaped, though without their wool and one of their horses.¹⁶⁵ The printer noted that the man who sold them the wool was charged with assisting them, “upon the evidences of several substantial witnesses,” and he was identified as John Stanford who had run in a county election in Kent as a candidate with wool in his hat, signifying himself “as utterly abhorring that destructive practice” of smuggling wool to France.¹⁶⁶ This was the election that Daniel Defoe addressed in the previously discussed issue of the *Mercator* in 1714.¹⁶⁷ Historians have long noted that smugglers worked with members of the community, often merchants with significant influence, but this article shows that there were also sections of the same communities who stood in opposition to smugglers and the merchant community that supported them.

While owlers sometimes met with resistance from the community, they more often battled with customs officers who scoured the coasts for smugglers. These land-based officers, called riding officers in newspaper accounts, were severely outmatched when they did not have a regiment of dragoons from the British army to assist them. This was the unfortunate circumstance of Gerrard Reeves, who “was barbarously murdered...by a gang of owlers” while on duty in Sussex.¹⁶⁸ The king offered a reward of £200 and a pardon to anyone involved, except the person who actually killed the officer, if an informant would testify against the guilty party. However, turning witness against smuggling gangs was a risky endeavor. Silence regarding smuggling was likely kept out of fear in many cases, rather than affiliation or affection. The fate of Joseph Allen, as reported in the *Original Weekly Journal*, is illustrative:

One Joseph Allen, formerly a smugler and owler on the coasts of Kent and Sussex, but since employ’d by the government to detect those frauds and abuses, was lately met by a gang of

¹⁶⁴ *Post Boy*, 27 Feb. 1714.

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

¹⁶⁷ *Mercator*, 8 Apr. 1714.

¹⁶⁸ *London Gazette*, 26 Jan. 1717.

owlers on those coast's, who beat his brains out, and threw his body into the sea, which has been taken up at Dover; but none of the murtherers are as we can hear of yet apprehended.¹⁶⁹

Potential informants knew the risks involved. Newspaper readers were again shown the brutality, strength, and illusiveness of smuggling gangs. Nonetheless, officials regularly offered financial incentives to the public for information against smugglers, as that was the most effective method for a successful prosecution.

Violence, Fame, and Infamy in Fight against Smuggling

The fight against smuggling was concentrated in a few areas, especially in regard to the heightened defense using the military, but it became nationally, and indeed internationally known through print. Smugglers gained notoriety from the frequent coverage and officers gained a bit of fame for successes against smuggling gangs. Smuggling seemed to increase throughout the 1710s; newspaper printers more frequently reported on smugglers in areas that had not been commonly featured in the press. News items suggested that customs officers were struggling to combat the growing tide of contraband. A 1715 article in the *Weekly Journal or Saturday's Post* shed light on this, relating that "27 Custom-house officers" were sent "to be added to the Riding Officers on the South Coast of England" to assist against smugglers.¹⁷⁰ Illicit trade had recently become "a considerable branch of trade, particularly in Dorsetshire," the article continued, showing that Kent and Sussex were not the only areas receiving extra manpower. Further, the article noted that smugglers "ran goods in abundance, and bullied officers into the bargain."¹⁷¹ The distinction of officers being forced as opposed to being willingly complicit is important, because bravery was often a death sentence for these officers. Officers who resisted smugglers despite bribes and threats of violence were celebrated in print for their bravery.

¹⁶⁹ *Original Weekly Journal*, 14 Dec. 1717.

¹⁷⁰ *Weekly Journal or Saturday's Post*, 21 Mar. 1719.

¹⁷¹ *Ibid.*

There were precursors to the heroes and villains that appeared in the 1710s and 1720s, like Hunt the smuggler who carried the natural son of James II to France or martyrs like Gerrard Reeves who died fighting the smugglers. However, the expanding newspaper press meant that more individuals would gain notoriety and the public could follow their careers to a certain degree. Some smugglers began showing up regularly in various newspapers through their confrontations with law enforcement or because of their role as leaders of a criminal organization. Two of the more notable examples in this early period were Jacob Walter and Gabriel Tomkin of the Mayfield Gang.

The Mayfield Gang was active through the 1710s and 1720s in Sussex, led by Gabriel Tomkin. His career as a smuggler has been researched more than many others for the surprising turns it took; he became an informant and later a customs officer after being wanted in connection with the murder of Gerrard Reeves.¹⁷² A report in 1718 stated that a regiment of dragoons stationed in Romney Marsh and several officers pursued the Mayfield Gang “who were at the murder of Mr. Reeves” and captured two smugglers, including Gabriel Tomkin who “hath been the captain of their gang for several years, and hath cost the government some hundreds of pounds to take him.”¹⁷³ Of course, this did not necessarily mean he would stay in the Maidstone Jail where he was imprisoned, as the gang had managed to break out of other confines. For instance, Jacob Walter and John Kent, both members of the Mayfield Gang, had escaped from custody only a few months earlier. A report carried in the *Evening Post* said that Walter and Kent, “two of the most notorious owlers on the coast of Kent who were lately brought in irons from the Dover Castle to Fleet Prison, found means to escape thence.”¹⁷⁴ John Kent had made the news a few years earlier for inflammatory words, calling both houses of Parliament a “parcel of rogues”

¹⁷² See Paul Muskett, “Gabriel Tomkin: Smuggler, Customs Officer, Sheriff’s Bailiff and Highwayman,” *Sussex History* 2, nos. 2 and 3 (1981, 1982): 8-17, 19-27.

¹⁷³ *Weekly Journal or British Gazetteer*, 18 Jan. 1718.

¹⁷⁴ *Evening Post*, 28 Nov. 1717; Articles featuring famous smugglers were usually reprinted in several newspapers. This article, for instance, also found in the *Original Weekly Journal* and *Weekly Journal or British Gazetteer* on November 30th.

and declaring “the Queen has none but a pack of rogues about her.”¹⁷⁵ He was sentenced to the pillory and it was noted that he was “an owler” and an “old offender.”¹⁷⁶

Walter was retaken by officers a few years later, along with another “noted smuggler” named Thomas Biggs, both brought into custody in Lydd, Kent.¹⁷⁷ However, the officers, who were holding the men at an inn, “were in a riotous manner assaulted by several armed men, who fired upon them, and by violence rescued” the smugglers.¹⁷⁸ This official notice printed in the *London Gazette*, named several accomplices, including two Tomkins (likely Gabriel and his son), Francis Norwood and others who were all known members of the Mayfield Gang. Two months later, multiple reports indicated that Walter had been taken into custody again.¹⁷⁹

Details of Walter’s capture emerged and appeared in a lengthy account, by newspaper standards of the day, printed in *Applebee’s Original Weekly Journal* on August 5, 1721. Customs officers and a regiment of soldiers surrounded two houses near Battle [reported as Battel] in Sussex where “the famous Mr. Walter, and thirteen other smugglers” were said to be hiding. Upon entering the buildings, the officers “found the said Walter hid under a bed” but the other smugglers were able to escape. Walter was taken to Fleet Prison in handcuffs and despite his previous escape, noted in the article, the author assured readers that it was doubtful he would escape again. The end of the report stated that the printer had been told this was indeed the “man for whom a reward was publish’d of an hundred pounds, and who was suspected of murder, as well as owling and smuggling.”¹⁸⁰ There were at least two reports slightly contradicting these, which said Walter was brought under a strong guard to Newgate

¹⁷⁵ *Post Boy*, 6 Aug. 1713.

¹⁷⁶ *Ibid.*

¹⁷⁷ *London Gazette*, 9 May 1721.

¹⁷⁸ *Ibid.*

¹⁷⁹ *London Journal*, 1 Jul. 1721; *Daily Post*, 2 Aug. 1721.

¹⁸⁰ *Applebee’s Original Weekly Journal*, 5 Aug. 1721; *Weekly Journal or Saturday’s Post*, 5 Aug. 1721; *Weekly Journal or British Gazetteer*, 5 Aug. 1721.

Prison, rather than Fleet.¹⁸¹ Nonetheless, the notorious smuggler, jail breaker, and suspected murderer had been caught hiding under a bed and was again in a London prison. Stories like these naturally made for compelling news and ensured that Walter's criminal career would continue to draw public attention. The article indeed indicated that Jacob Walter was famous to newspaper readers. More news did follow, of course. Walter was indicted "for murder and felony" at the end of August and a "fresh charge" was added at the beginning of September.¹⁸² Reports suggested that the smuggler was expected to be released without prosecution, but he was eventually convicted.¹⁸³ In July the following year, the *Daily Courant* featured an article informing its readers that Walter, the "notorious owler and smugler" embarked on a ship in the Thames to be transported to the colonies in America "having been lately tried and convicted for transporting of wool".¹⁸⁴

The Mayfield Gang had been suffering other blows as well, and the British public was able to follow the events through various news outlets. Gabriel Tomkin was captured in Sussex in mid-1721 and brought to the Fleet Prison "under a guard of a party of grenadiers commanded by Lieutenant Jekyll."¹⁸⁵ The leader of the Mayfield Gang, like his counterpart Jacob Walter, was sentenced to transportation to the British colonies in America. Tomkin had been convicted of smuggling wool to France twice already, according to a report in the *Daily Journal*, and his third conviction earned him transportation under a law passed in 1717 for transporting felons.¹⁸⁶ The sentence was carried out the following March. John Applebee and others reported that he was taken on a ship from Gravesend to be transported across the Atlantic just a few months before Walter.¹⁸⁷

¹⁸¹ See *Post Boy*, 3-5 Aug. 1721 and *Weekly Journal or British Gazetteer*, 5 Aug. 1721.

¹⁸² *Daily Journal*, 31 Aug. 1721; *Daily Journal*, 7 Sept. 1721.

¹⁸³ *Daily Journal*, 4 Nov. 1721.

¹⁸⁴ *Daily Courant*, 2 July 1722; *Weekly Journal or Saturday's Post*, 7 July 1722.

¹⁸⁵ *London Journal*, 4 Nov. 1721.

¹⁸⁶ *Daily Journal*, 28 Oct. 1721; 4 Geo I c. 11.

¹⁸⁷ *Applebee's Original Weekly Journal*, 17 March 1722; Also reported in *Daily Courant*, 17 March 1722 and *Weekly Journal or British Gazetteer*, 17 March 1722. Tomkin's transportation was again mentioned in the *Daily Courant* article that reported Jacob Walter's transportation.

The Mayfield Gang was dwindling through vigilance by military units and customs forces. Francis Norwood, “the famous smugler” who was mentioned alongside Walter in previous articles was arrested at the end of 1722 after a £100 reward was offered for him, and John Kent was captured a month later.¹⁸⁸ Kent, it was noted in the *London Journal*, was brought to Newgate after having “been confined in Dover and Maidstone Goals, as also the Fleet Prison, from all which he broke out.”¹⁸⁹ The notorious smuggler and jailbreaker John Kent died in Newgate less than a month afterwards.¹⁹⁰ It was rather fitting that an article just below in the same issue began, “as we have declared war against all smugglers, we are determined to expose them to the utmost.”¹⁹¹

Readers of London papers often saw the smuggling problem come closer to home, with events occurring on the River Thames and in the city itself. The provision against rowing vessels of more than four oars in the 1721 Act was spurred on by smugglers venturing up the Thames and battling officers who confronted them.¹⁹² One event in particular was reported in great detail because of the smugglers’ boldness. The report carried in the *Weekly Journal or British Gazetteer* related that customs officers on two boats stopped two smuggling vessels, “one of which had 12 oars,” to ask their business. The account followed:

Answer was made, that they were bound up the river as well as themselves; whereupon the smuglers flung some flint stones at them, by which one of the officers was very much cut under the ear; then the Custom-house boats threw in their grappling hooks, the others cut them loose, and afterwards attempted to fire a blunderbuss at them three several times, which as often flash’d in the pan, but going off on the 4th time, one of the watermen was shot thro’ the head, and the smuglers held their way up the river without being stopt, but search being made, they were found in Fox Hall-Creek, with every thing taken out of them. It is reported, that the Custom-House had notice of these boats coming from Ostend with India goods on board; of which they had several 1000 l’s worth.¹⁹³

¹⁸⁸ *London Journal*, 29 Dec. 1722; *London Journal*, 19 Jan. 1723.

¹⁸⁹ *London Journal*, 19 Jan. 1723.

¹⁹⁰ *London Journal*, 16 Feb. 1723.

¹⁹¹ *Ibid.*

¹⁹² 8 Geo II c.18.

¹⁹³ *Weekly Journal or British Gazetteer*, 19 Aug. 1721.

A few smugglers were caught and gave evidence against 18 of the men involved in the run up the river. The crown offered a £100 reward “for Captain John Coombs [later reported as Combes], who fir’d the piece” which killed the waterman.¹⁹⁴ The boldness of the crime influenced the 1721 Act limiting oared vessels on the Thames, elevated concerns about smuggling from Ostend, and gave Captain Combes instant notoriety.

Captain Combes was a resident of London with a house in Westminster. Authorities raided his home after he was named as the shooter in the battle on the Thames. Officers found “thirty large bags of tea, supposed to be part of the cargo of the two smuggling boats lately taken.”¹⁹⁵ Combes was able to escape to Ostend where he continued in the merchant community. In March 1723 the printer of the *British Journal* reported that Combes had become “Commander of one of the Ostend East-India Company’s ships, with the Emperor’s Commission.”¹⁹⁶ This news would have been especially aggravating for many in England who were outraged at the smuggling trade developing in Ostend.¹⁹⁷ Combes eluded English justice, though at least five of the men involved in the battle on the Thames were convicted and transported.¹⁹⁸ Smuggling to Ostend proliferated, however, with English ships sailing “from Colchester, Chatham, Rochester, Margate, Ramsgate, Hastings, Poole, Weymouth and Plymouth,” and “eleven Irish brigs” were found at Ostend in 1725, “thought to be running contraband along the south coast of Ireland.”¹⁹⁹

¹⁹⁴ *Weekly Journal or British Gazetteer*, 19 Aug. 1721.

¹⁹⁵ *Weekly Journal or Saturday’s Post*, 26 Aug. 1721. This issue carried another report that one of the smugglers who had turned witness for the crown had named the rest of his gang, but arrests had not been made. Seized goods were being prepared for auction. See also, *Post Boy*, 22 Aug. 1721 and *Weekly Journal or British Gazetteer*, 26 Aug. 1721.

¹⁹⁶ *British Journal*, 23 Mar. 1723.

¹⁹⁷ See Gerald B. Hertz, “England and the Ostend Company,” *The English Historical Review* 22, no. 86 (1907): 255-279; Muskett, “English Smuggling,” 71-75.

¹⁹⁸ *Daily Journal*, 7 July 1723; *Daily Journal*, 23 Jan. 1723 also features a report that a smuggler involved had been captured.

¹⁹⁹ Muskett, “English Smuggling,” 75.

The early 1720s witnessed dramatic violence related to smuggling gangs in southern England, despite the dismantling of much of the Mayfield Gang. Accounts like that of Captain Combes and the battle on the Thames were indicative of the widespread violence. The printer of the *London Journal* included two articles in April 1721 which illustrated the situation. The first stated that French smugglers had become so bold that they would land their smuggled brandy “and frequently send guards with it of 15 or 20 musketeers 5 or 6 miles into the country” and even force officers to “hold the smugglers horses, while they unloaded their brandy.”²⁰⁰ The gangs could reportedly summon up to 100 men and threatened to burn Battle to the ground if they were opposed, according to the report. The subsequent article indicated that the situation in Kent was no better. There the smugglers had “grown so intolerably outrageous and impudent, that the Custom-House officers are no manner of check upon them,” as up to fifty men smuggled goods in the middle of the day from French sloops.²⁰¹ In order to prove their control over the area, the smugglers shot an officer and “to render him a terror to others, they stabb’d him in about a dozen places after he was dead.”²⁰² Another account from the same issue related that “another officer, for whom those miscreants had some small regard,” was offered some brandy and after he was drunk, “they pour’d it down his throat with a funnel, to the amount of about two quarts and a pint.”²⁰³ The smugglers, these accounts assured, were barbaric and cruel. However, for all of the famous smugglers and these anonymous villains, there were also officers who earned their own fame through accounts of heroism in defense of king and country.

Customs officers and army regiments on the coasts of England were almost always outmatched and several steps behind the smuggling gangs. Smugglers often had greater numbers and had plenty of lookouts to keep them apprised of troop movements. Some officers and soldiers were even complicit

²⁰⁰ *London Journal*, 8 April 1721.

²⁰¹ *London Journal*, 22 April 1721.

²⁰² *Ibid.*

²⁰³ *Ibid.*

with the smugglers or valued their lives over their duty to the crown. However, there were some officers who were diligent and managed to make a name for themselves without falling victim to the cruelties of the smugglers. Newspaper printers followed one in particular, Lieutenant Jekyll from Brigadier-General Grove's Army Regiment, because of his effectiveness and several high-profile arrests.

Lieutenant Jekyll was the man credited with finally bringing in Gabriel Tomkin, as mentioned earlier. According to the report in the *Evening Post*, Jekyll and his group of grenadiers captured "the head ringleader of the owlers...and pursued one Jervis, another noted ringleader."²⁰⁴ Jervis fired on the soldiers, who returned fire and pursued the smugglers as the criminals retreated into the woods. The smugglers eventually managed to escape on horseback. Undeterred, Jekyll and his men tracked the smugglers through the night. The officers were able to surround the gang members and capture four men and five horses.²⁰⁵ Jekyll was celebrated in print for his actions, as seen in a report later that year, which offered an update to the confrontation between the Lieutenant and the Mayfield Gang. Jekyll and his men arrested Jervis, though now reported as Jervoise, and the Lieutenant was noted as "Jekyl who took Tomkins the notorious owler, that was lately order'd for transportation."²⁰⁶ Later when Jervis went to trial, it was noted that he was the man taken by Lieutenant Jekyll.²⁰⁷ Clearly the officer's rising fame elevated the newsworthiness of the story. In another account detailing the capture of Jervis, who was "said to be the bastard son" of Tomkin, the author stated Jekyll "is grown the terror of the smuglers and owlers in those parts."²⁰⁸ The account added that he was able to capture Jervis "by a stratagem," that is, bribing the man's mistress to give him up.²⁰⁹ Clever and tenacious, Jekyll was making a name for himself in London newspapers.

²⁰⁴ *Evening Post*, 18 Sept. 1721.

²⁰⁵ *Ibid.*

²⁰⁶ *Daily Post*, 18 Nov. 1721.

²⁰⁷ *Daily Post*, 1 Dec. 1721.

²⁰⁸ *Weekly Journal or British Gazetteer*, 18 Nov. 1721.

²⁰⁹ *Weekly Journal or British Gazetteer*, 18 Nov. 1721.

Over the next few years, Jekyll would continue his crusade against the smugglers with great success as seen in the reports of various newspapers. In January 1722 he captured “a notorious owler” who tried to free smuggler Jacob Walter during a riot.²¹⁰ Then in December Jekyll apprehended Thomas Bigg and John Walter, Jacob Walter’s brother, both similarly described as “notorious smugglers and owlers.”²¹¹ The following year the *Daily Journal* featured a report which informed readers that some of the infamous smugglers Jekyll arrested would be tried in the Court of Exchequer.²¹² Lieutenant Jekyll’s efforts earned him favorable press notices, and eventually a promotion and raise. It was reported in the *British Journal* in 1724 that “Jekyl, who has done great service against the owlers on the coast of Sussex, is made a Lieutenant in the Honourable Charles Churchill’s Regiment of Dragoons,” and his pay was almost doubled.²¹³

There were many other officers who appeared in the columns of newspapers in the 1720s, many who were made martyrs in the government’s fight against smugglers, but Jekyll’s career is one of the more notable examples of British Army officers becoming minor heroes in British print culture. The assistance of the Army was not always appreciated, however. Military presence meant that soldiers would be quartered in the area, causing disruption to daily life. Moreover, soldiers and officers were not always going to be as diligent or effective as Lieutenant Jekyll. One example of this comes from Gosport, where a regiment of dragoons, under command of one Kerr, was stationed starting in January 1724.²¹⁴ Despite a series of battles and seizures over the following months, the arrangement weighed on some.²¹⁵ In one of these instances, excise officers made a seizure which was then taken by Kerr’s dragoons. The excise officers went to reclaim their seizure and were violently turned away by the

²¹⁰ *Daily Journal*, 26 Jan. 1722

²¹¹ *Daily Journal*, 3 Dec. 1722; See also, *Weekly Journal or Saturday’s Post*, 8 Dec. 1722.

²¹² *Daily Journal*, 26 Jan. 1723.

²¹³ *British Journal*, 15 Aug. 1724.

²¹⁴ *British Journal*, 25 Jan. 1724.

²¹⁵ *British Journal*, 22 Feb. 1724; *British Journal*, 29 Feb. 1724; *British Journal*, 4 April 1724; *British Journal*, 11 April 1724.

dragoons, who drew their weapons and fought to claim the contraband as their own.²¹⁶ Eventually, the regiment's stint in Hampshire ended and the letters from Portsmouth expressed satisfaction with their departure. The dragoons left for York to join the rest of their regiment, with a new set of soldiers to replace them, and the author of the letter wrote "it was high time to remove those gentlemen; for (whatever they might do at their first coming) several of them have a long time been very faulty, and assisted the smugglers more than the officers, whom they on many occasions prevented and betray'd."²¹⁷ Government efforts to suppress smuggling, despite the efforts of men like Jekyll, were not going very well according to newspaper coverage.

Alongside the heroic acts of some officers and conniving acts of others, readers were able to see the escalation of law enforcement against smuggling, such as the commissioning of new ships, and the near constant reports of seizures, arrests, and trials involving unnamed smugglers and officers. Various reports indicate at least 27 ships were constructed and commissioned to fight against smugglers on the coasts of Britain and Ireland throughout the early 1720s.²¹⁸ Additionally, a Man of War was reported to have captured numerous smugglers in the English Channel off the coast of Hampshire.²¹⁹ The same ship was even opposed by five French smugglers who fired on the vessel when confronted, but retreated after a few volleys.²²⁰

Despite the increasing defense, the smuggling problem was portrayed as a dismal affair; the smugglers were winning through strength of numbers and a seemingly desperate brutality. A series of accounts in the mid-1720s illuminated the dire situation. An officer in Wales "was beaten almost to death" in Aberystwyth by a group of smugglers who stabbed him and left him for dead, and in another

²¹⁶ *British Journal*, 29 Feb. 1724.

²¹⁷ *British Journal*, 8 May 1725. The same article notes frauds from a custom house clerk who issued false certificates for merchants to smuggle wine.

²¹⁸ *Post Boy*, 2 May 1721; *Weekly Journal or British Gazetteer*, 13 May 1721; *London Journal*, 9 Sept. 1721; *Weekly Journal or British Gazetteer*, 9 Dec. 1721; *London Journal*, 23 Mar. 1723; *British Journal*, 20 April 1723.

²¹⁹ *London Evening Post*, 8 Feb. 1729.

²²⁰ *Weekly Journal or British Gazetteer*, 21 Jun. 1729.

confrontation a group of officers was assaulted by smugglers and “the mob of the town.”²²¹ One of the officers told the mob he would rather die than abandon his duty, after which “they cut him in the head, face, throat and shoulders, in so barbarous and inhumane a manner” that he could no longer speak.²²² The author further suggested that it was common to see such violence, especially in Welsh communities that were generally opposed to the current government. Even in cases where smugglers were bested and put on trial, some accounts suggested that it might not be enough.

A lengthy report from Portsmouth detailed a series of arrests, numbering around twenty, along with large seizures and ample evidence against the smugglers, but the author of the published account expressed doubt about the outcome, noting the smugglers had bribed dragoons and had other methods for their defense:

Notwithstanding all this, and the good reasons there are to believe, the government has very circumstantial and abundant evidence against the smugglers, some people are so sanguine as to say, they believe the smugglers will get the better, when it comes to a trial: They are such able masters of the science of defence and have so many veteran champions at their service, that there is no doubt they will extricate themselves out of their difficulties.²²³

If smugglers could not free themselves through a legal defense, as seen in accounts above, they would resort to violence. With the help of other smugglers, they could murder witnesses against them or find means to break out of jail. There were also cases of smugglers receiving help from those charged with their custody, such as the case of Thomas Bambridge “aiding and assisting in the escape” of a noted smuggler charged with a suit of almost £30,000.²²⁴ If all else failed, convicted smugglers could return from their transportation to the colonies. There were regular notices in newspapers informing the public about wanted smugglers who had returned from the colonies before their transportation sentences

²²¹ *Weekly Journal or British Gazetteer*, 31 Jul. 1725.

²²² *Ibid.* Another case of mob violence against an officer appeared in the *Country Journal or The Craftsman*, 29 July 1727.

²²³ *British Journal*, 23 Oct. 1725.

²²⁴ *Monthly Chronicle*, Dec. 1729.

were complete. The seeming futility of transportation was made clear by the return of two of the most notorious smugglers of the era: Jacob Walter and Gabriel Tomkin.

The infamous Mayfield Gang smugglers were able to return to Britain from the colonies before their sentences were complete. Tomkin had been transported to New Providence and from there managed to travel to Cuba before returning to England.²²⁵ The Custom House in London published a notice in the *London Gazette* in 1725. The notice indicated that Tomkin, Walter, and two others, including Tomkin's son, had returned to the country and resumed smuggling in Kent and Sussex and it offered a reward for information leading to their recapture.²²⁶ However, the men were able to continue smuggling for several years. Another notice in the *London Gazette* informed the public that they still had not been apprehended, having "joined with several other smuglers in Kent and Sussex, where they continue to run great quantities of goods, and obstruct the officers in the execution of their duty."²²⁷ Similar reports appeared exactly a year later in multiple papers.²²⁸ Despite their return and long evasion of law officers, they were eventually captured in 1729.²²⁹ Facing the death penalty, Tomkin decided to offer his services to the crown and eventually, by a strange reversal of circumstance, became an officer against the smugglers in Kent and Sussex.²³⁰ Another sign of relief in the ongoing struggle against the smugglers came with news of the capture of Captain Combes by an English agent in Bengal, where he was sailing under Polish colors.²³¹ Despite the constant contraband trade, it was difficult to make a life-long career of smuggling.

²²⁵ Muskett, "English Smuggling," 170.

²²⁶ *London Gazette*, 11 May 1725.

²²⁷ *London Gazette*, 1 Feb. 1728.

²²⁸ *Flying Post*, 1 Feb. 1729; *Universal Spectator and Weekly Journal*, 1 Feb. 1729; *Weekly Journal or British Gazetteer*, 1 Feb. 1729.

²²⁹ *Daily Post*, 6 Oct. 1729.

²³⁰ Muskett, "English Smuggling," 170; See also, Paul Muskett, "Gabriel Tomkin: Smuggler, Customs Officer, Sheriff's Bailiff and Highwayman," *Sussex History* 2, nos. 2 and 3 (1981, 1982).

²³¹ *Evening Post*, 27 Aug. 1730.

The Colonial Press

The smuggling problem was portrayed as an increasingly violent and seemingly unwinnable battle against hordes of smugglers and sometimes complicit officers and subjects. It was growing into a crisis in some coastal areas. Smuggling and the associated violence became a common aspect of the public's weekly news and became a regular feature of major economic treatises that aimed to correct the ills that beleaguered British trade, despite Britain's expanding commerce throughout the period. The smuggling crisis had become a significant part of British print culture, even in the colonies in North America where newspapers often reprinted news from their metropolitan counterparts. This was especially true of the *Boston News-Letter*, whose editor, John Campbell, "aimed...at linking provincial Americans with the metropolitan center of their pan-Atlantic English world," according to historian Charles E. Clark.²³² This emphasis, Clark further notes, began to change around 1739, but it "was not abandoned entirely for a quarter-century after that."²³³ So for decades the print culture of the colonies was, unsurprisingly, an extension of British print culture all the way down to the news colonists read. Of course, this meant that the smuggling problem became trans-Atlantic news.

In 1717, Campbell opened an issue of the *Boston News-Letter* with a piece regarding smuggling in Britain. It was a "presentment" issued by James Vernon, a commissioner of the privy seal, from the Commissioners of His Majesty's Customs that read:

We have had frequent complaints from our officers in several parts of the coasts of this Kingdom, that the smuglers are now grown so very numerous and insolent, that they appear in bodies, from 20 to 30 armed men, and in defiance of the officers of the customs do forcibly run great quantities of goods, to the great prejudice of the revenue and the fair traders, a fresh instance whereof we have now before us from our officers at Stockton.²³⁴

²³² Charles E. Clark, *The Public Prints: The Newspaper in Anglo-American Culture, 1665-1740* (New York: Oxford University Press, 1994), 79.

²³³ *Ibid.*

²³⁴ *Boston News-Letter*, 11-18 Nov. 1717.

The instance mentioned above referred to a regiment of dragoons refusing to assist customs officers in an attempted seizure of goods that had been smuggled into England. Vernon's message related a royal order for all military officers "quartered on, or near the sea-coast, throughout England as well as Scotland," to provide assistance to officers of the customs "in hindering the exportation of wool, and illegal importation of French silks, brandy, and other goods, and preventing the evil practice" of smuggling.²³⁵ The fight against illegal trade naturally became a common feature of colonial news throughout the 1720s due to the dramatic nature of the conflicts and the frequency of articles on those skirmishes and battles.

Colonial readers could follow the infamous smugglers and violent battles that concerned their British counterparts. The saga of Captain Combes, for instance, made its way across the Atlantic.²³⁶ Similarly, the news of the Waltham Blacks, an infamous group of poachers who inspired a piece of draconian legislation, was printed in the colonies after they intercepted some officers of the customs who were transporting a seizure of smuggled wine.²³⁷ Naturally, more specific news of the brutality of the smuggling crisis reached the colonies. An article from the *Boston Gazette* in 1729 featured an account of a battle between a royal sloop and some smugglers "wherein one of the smuglers had his arm shot thro', and shatter'd almost to pieces," and an article in the *New-England Weekly Journal* two years later recounted the murder of the tide-surveyor from Plymouth, John Pike, at the hands of a group of smugglers.²³⁸

Throughout the 1720s, colonists were able to read about the major issues surrounding smuggling. Newspaper printers included articles on smuggling in the woolen industry, the danger of

²³⁵ *Boston News-Letter*, 11-18 Nov. 1717.

²³⁶ *American Weekly Mercury*, 16 Nov. 1721; *New York Gazette*, 29 Dec. 1730.

²³⁷ *Boston News-Letter*, 9 May 1723; For original articles, see *Post Boy*, 14 Mar. 1723 and *Compleat Set of St. James's Journals*, 1723, p. 281. The connection between the Waltham Blacks and smugglers would be noted again and the so-called 'Black Act' would later serve as a basis for an act against smugglers in 1746. For more on the 1746 Act, see Chapter 3.

²³⁸ *Boston Gazette*, 3 Nov. 1729; *New-England Weekly Journal*, 27 Dec. 1731.

smugglers carrying the plague, and numerous accounts of continental smugglers, including the resumption of smuggling out of Ostend.²³⁹ As mentioned previously, the *New-England Courant* also reprinted the story of the woman who attempted to hide the smuggled cannister of tea between her legs.²⁴⁰ Thus, the colonial reading public shared, through newspapers and a common print culture, some of the same conceptions of smugglers as their fellow subjects in Britain. At the very least colonials understood that there was a violent organized crime wave happening in Britain and in continental Europe. They did not directly experience similar levels of violence to southern England, but their reputation would eventually be tainted with the stain of smuggling and would struggle with that association in the following decades.²⁴¹

Conclusions and Epilogue

The phenomenon of smuggling in the eighteenth century has been studied from various angles since the mid-nineteenth century, but its role in the broader British print culture has been overlooked. This is understandable because there are more obvious concerns with smuggling at face value: its economic impact, its merits as “social crime,” the policing methods against it, and the processes by which it was carried out to name a few. Newspapers, pamphlets, laws, and the rest of a society’s print culture generally reflected the views of the middle and upper class. These were the well-educated and often well-to-do members of the ruling class, merchant and manufacturing community, and intellectuals who described the phenomenon from a distance. Some authors, like William Symonds, wrote from alleged firsthand knowledge. He had been a wool trader and travelled through Kent and witnessed the

²³⁹ *Boston Gazette*, 9 May 1720; *American Weekly Mercury* 25 Sept. 1720; *New-England Courant*, 30 Apr. 1722; *Boston Gazette*, 28 Sept. 1721; The *Boston Gazette* issue contains a letter from Samuel Shute, Governor of Massachusetts Bay, which warns against French smugglers coming to the colonies; *American Weekly Mercury*, 15 Mar. 1722, 14 Oct. 1725; *New-England Weekly Journal*, 31 Aug. 1730, 12 Jan. 1730; *American Weekly Mercury*, 10 Feb. 1730; *New-England Weekly Mercury*, 20 Mar. 1732.

²⁴⁰ *New-England Courant*, 2 Oct. 1725.

²⁴¹ Colonial smuggling discussed in Chapter 5.

owlers audaciously operating in the open and seemingly in total control of the countryside.²⁴²

Pamphlets, such as Symonds's, newspapers, and print culture reflect commonplace public views and national debate about smuggling. Taken together they show a clear counter-narrative to the public acceptance or support of illegal trade. Authors who engaged in the counter-narrative regularly noted the popular notion that smuggling was not a significant criminal act. Authors repeatedly attempted to correct that view with repeated references to the king and honest merchants, or even the English nation, as the true victims of illegal trade.

Laws against smuggling reveal which public concerns influenced Parliament. Paul Muskett notes that the series of Acts passed against smuggling in the eighteenth century "provide a guide to the intentions and anxieties of the administrators and may also indicate the relative importance attached to particular problems at different times."²⁴³ He further points out that "legislation was descriptive as well as prescriptive," but it is important to note that legislation was also *reflective* of a broader discourse, both in the problems that were addressed and even the language used, as found in the law to prevent smuggling during the Great Plague of Marseille.²⁴⁴ The phrase "pernicious practice," as smuggling was commonly called, appeared in almost every form of print. When viewed together, the seemingly disparate sources on smuggling form a distinct cultural phenomenon. Smuggling was a widely practiced form of organized crime that became an international and trans-Atlantic concern in British print culture. The problem of illegal trade was well known to anyone who could read or heard the news in coffee houses, taverns, or public places where newspapers were distributed. It is also important to note, that with Britain's expanding ties to Asia, smuggling was becoming a global issue, as indicated by treatises on foreign trade and news of smugglers in India.

²⁴² Symonds, *Golden Fleece Preserved*, 12-16.

²⁴³ Muskett, "English Smuggling," 33.

²⁴⁴ *Ibid.*, 34.

Smuggling stained the reputation of regions where it was perceived to be rampant during the late-seventeenth and early-eighteenth centuries because of illegal trade's representation in print. The Kentish people were mocked when they petitioned the government for assistance because of their publicized penchant for smuggling. The Welsh were demonized in the news after a mob attacked an officer. The counties of the southern coast, Essex, Suffolk, Norfolk, the Isle of Wight, the Isle of Man, the Channel Islands, Ireland, Scotland, and New England would all suffer this stigma in the eighteenth century. Of course, this was not entirely unwarranted. Smuggling was a part of everyday life for many British subjects and by all accounts there was a significant portion of the population that was either involved or complicit in some way, even if that meant buying cheap tea, wearing calicoes, or partaking in French brandy. There were subjects who resisted the control of smugglers in these areas, but the notion of Kentish owlers and Sussex smugglers was a powerful concept in print. The association of these regions with smuggling affected metropolitan perceptions of the populace of these regions. The news item from Wales, for example, suggested that the violent actions of the mob were an indication of Welsh dissatisfaction with the government. Smuggling in that view was a rejection of Parliamentary and Crown authority.

Historians have not fully appreciated that smuggling was a unique crime as it appeared in print culture. Other pervasive forms of violent or potentially "social crimes," such as wrecking, poaching, or robbery by highwaymen, were a consistent concern for lawmakers and newspaper printers, but smuggling received wider attention over the course of the eighteenth century and beyond.²⁴⁵ Other crimes were reported frequently in newspapers and could influence legislation like smuggling. This was the case with the infamous Black Act in 1723 against poachers in England, though these crimes were not portrayed as a threat to British stability in the way that smuggling was. These criminal acts threatened

²⁴⁵ Wrecking was the salvaging of shipwrecks on the English coast and has been studied as a form of social crime in England. See John Rule, "Wrecking and Coastal Plunder," in *Albion's Fatal Tree* (New York: Pantheon Books, 1975), 167-188.

the social order, but they did not tip the balance of trade toward Britain's enemies. This perceived threat influenced the economic millenarianism contained in the literature on the decline of the English wool industry, prompting economists and merchants to rail against smuggling. The fear of economic collapse provided justification for William Symonds' sentiments when he suggested he would save ten highwaymen "and hang the owler" because one owler did more damage to the nation than twenty highwaymen, who only rob "some few persons."²⁴⁶ Furthermore, smuggling was an international affair, and it became an increasing concern European empires that sought to maintain a favorable balance of trade through economic protectionism. For many contemporaries, smuggling was one of the most damaging crimes of the eighteenth century because of its wide-ranging effects.

At its core, smuggling was an act intended to maximize profits or gain access to prohibited goods through the circumvention of the law. As such, it was not inherently a political act, though Paul Monod has detailed its significant connections with Jacobitism. These connections were also apparent to readers in the eighteenth century, especially through reports that recounted the escape of members of James II's court escaping to France aboard smuggling vessels. Despite the generally apolitical nature of smuggling, government supporters frequently criticized opposition to new taxes and regulations as the arguments of illegal traders who owed more loyalty to France than their countrymen. Whigs and Tories alike labeled their political adversaries smugglers, both groups seizing on nationalistic rhetoric to influence public opinion on illegal trade. The Kentish Petition, which called for help from the government against a potential French invasion, was derided by Tories who suggested that if the Kentish people were concerned about France, they would not trade away the nation's commerce to them. The politicization of smuggling would become a more serious issue when British merchants trading in Spanish America drew Madrid's ire.²⁴⁷

²⁴⁶ Symonds, *Golden Fleece*, 12.

²⁴⁷ See Chapter 2.

Smugglers were not the honest thieves that Charles Lamb perceived, at least not as they were portrayed in print for the first seventy years of the word's existence in English. They were almost universally cast as the wretches that appeared in Samuel Johnson's dictionary in 1755. By the end of the 1720s the organized criminal gangs that smuggled goods were an infamous threat in England, even prompting a prison reformer to write:

'tis well known that most of these smugglers are a sort of lawless banditti, who have been guilty of all sorts of violences and frauds, in assaulting some of the King's Officers, and bribing others; in making false entries at the custom-house, and suborning evidences in the courts of justice, to avoid punishment for the frauds they have been guilty of; so that they may justly be esteemed the most profligate and abandon'd part of mankind.²⁴⁸

The author was horrified by the conditions that debtors faced in prison and by the behavior of the jailers, who were sadistic and corrupt. The author's tone changed when he turned to the matter of individuals in debt to the crown. These were mostly smugglers who could not pay the penalties levied against them, who clearly did not deserve the same consideration in his eyes.

Smugglers in print would later become, for some, the anti-hero that appeared in fiction throughout the nineteenth and twentieth centuries. Yet, at the beginning of the eighteenth century they were near universally condemned as members of violent gangs. Undoubtedly, there were many communities that smuggled in relative peace, not needing to resort to the violence seen elsewhere, but these stories did not appear in newspapers with any frequency, and these were not the smugglers on whom writers were inclined to focus. The impact of the smuggling problem on British culture and on the British reading public's perception of smugglers, is further illuminated by their direct and extensive appearance in fiction in 1729: *The Smugglers*, a play by Thomas Odell.

Odell was a playwright and (briefly) theater manager who opened his play *The Smugglers* in 1729, the same year as he opened his own theater in Goodman's Fields. He wrote the Dedication of the

²⁴⁸ W.R., *The Arbitrary Punishments and Cruel Tortures Inflicted on Prisoners for Debt Represented and Described* (London, 1729), 27.

play to George Doddington, a lord commissioner of the Treasury board, and therein revealed the direct influence of newspapers on his conception of smugglers. He wrote that news of smugglers from Hampshire influenced him to write the play, so that he could “expose...practices so very pernicious to the publick.”²⁴⁹ The situation had become serious in Hampshire, especially near Portsmouth and Gosport, where dragoons had been patrolling for several years. Odell goes on to describe the crimes of smugglers, which were described as early as 1725 in the *British Journal*.²⁵⁰ He notes that the Hampshire smugglers had bribed custom house officers, had sympathetic juries, and able lawyers to ensure their acquittal, most of which was addressed in the 1725 article.²⁵¹

Odell depicted smugglers as vile, bordering on evil. They were amalgamations of the countless rogues that were portrayed in print throughout the first quarter of the eighteenth century. These smugglers were unscrupulous men who had turned from honest work to smuggling and would cross any moral line to secure their profits. They refused to pay those in their employ, which is a narrative drive of the play, as several unpaid ship masters turn informant against them.²⁵² The play follows one family in particular, a smuggler named Vulcan, his wife, and daughter Susan, and the various smugglers, custom house officers, and others in their circle. Vulcan and his wife are unbelievably cruel to their daughter, who has fallen in love with an honest custom house officer named Trusty, who is Vulcan’s “greatest enemy.”²⁵³ Vulcan and his wife threaten to beat their daughter and blame her ability to read for her inclinations away from her parents’ life of crime. They further blame her education for her desire to be with Trusty, rather than the corrupt custom house officer they had under their thumb, and to whom they intended to marry their daughter.²⁵⁴ In addition to the cruelty to their daughter and their refusal to

²⁴⁹ Thomas Odell, *The Smugglers* (London, 1729), ii. Preface style page indicators adapted for the unmarked pages of the dedication.

²⁵⁰ *British Journal*, 23 Oct. 1725.

²⁵¹ Odell, *The Smugglers*, ii-iii.

²⁵² *Ibid.*, vi.

²⁵³ *Ibid.*, 9.

²⁵⁴ *Ibid.*

pay their underlings, they carry out acts associated with smugglers in British print culture. The smugglers bribe a jury foreman who proudly claims they have overthrown the king by finding in favor of the smugglers, and another group of illicit traders murder a group of custom house officers.²⁵⁵ Vulcan's smugglers even cheer at news of the murder of four crown officers. After hearing the officers tried to stop a large group from landing tea, all the smugglers remark "Were they so! Audacious villains! They're serv'd right."²⁵⁶ Oats, the book-keeper of the smugglers who brought this news in a letter, relates more news from the letter, saying "It gives advice too of a general resolution taken by all the smugglers in Britain to murther all opposers" to which the group responds "That's highly necessary."²⁵⁷ The book-keeper offers one last piece of advice to the smugglers before him, suggesting "It exhorts you, if any are bold enough to molest you on this coast, to follow so laudable an example."²⁵⁸ The play ends with the smugglers meeting their just end in the hands of officers at Trusty's direction and although the villains have some small redemption by allowing their daughter to marry the honest officer, the comedy portrays the purveyors of untaxed goods as the basest people imaginable.²⁵⁹

Far from the honest thieves of later conceptions, these archetypal smugglers are characterized as dishonest as any individuals could be. They are a group who are proud of their duplicity and express a worldview that most of humanity was equally dishonest. It was foolish to lose out by remaining true or upholding some dignified oath. The counter-narrative on smuggling led Odell to this perception of illegal traders. Criticisms of smugglers intensified as violence increased in the 1730s and 1740s. Eventually, Parliament reacted with even more severe legislation to curb illicit trade. Many Britons felt the new laws infringed on natural British rights in the name of security. A strong opposition to the ministry of Robert Walpole criticized the encroaching state, while simultaneously driving Britain to war over smuggling.

²⁵⁵ Odell, *The Smugglers*, 23; *Ibid.*, 35.

²⁵⁶ *Ibid.*, 35.

²⁵⁷ *Ibid.*

²⁵⁸ *Ibid.*

²⁵⁹ *Ibid.*, 61-62.

War for the Smugglers: Spanish Depredations, British Smugglers, and the War of Jenkins' Ear

Every state contends with smugglers. Prohibitions and taxes create opportunity for enterprising groups and individuals to circumvent state authority to access an otherwise restricted market. The empires of western Europe in the eighteenth century were plagued by smuggling both at home and in their colonies. Concerned with the balance of trade, Britain and Spain regulated colonial commerce to extract resources and enrich the metropole. Colonial regulations were, of course, extremely difficult to enforce. Spain's monopoly on their colonial trade was frequently violated by foreign smugglers as well as their own colonists, who adapted to the circumstances of their environments. The merchants of Seville were not capable of fulfilling the needs of the Spanish American population, a vast and widely dispersed collection of diverse peoples subsumed into one empire.¹ Smugglers of many nations infiltrated Spanish markets in the Americas, but in the 1720s they met with the strengthened resistance of the *guardacostas*, "a force of licensed warships" to fight against contraband trade in coastal waters of the Caribbean and Spanish Main.²

Contraband trade was a constant concern for Spanish authorities, but after 1713 there was a new development that made British smuggling the focus of Spain's frustrations. The Peace of Utrecht brought an end to the War of the Spanish Succession, reshaping the balance of power and trade in Europe. There were several key changes to the Anglo-Spanish relationship, such as Spain's cession of Gibraltar and Minorca to Britain, but the most important for diplomatic relations in the 1720s and 1730s was Britain receiving the *asiento*, a contract with the Spanish crown to be the sole legal provider of

¹ For a discussion of Spain's imperial trade policies, see Geoffrey Walker, *Spanish Politics and Imperial Trade, 1700-1789* (London: Indiana University Press, 1979), 1-15.

² John Lynch, *Bourbon Spain, 1700-1808* (Oxford: Basil Blackwell, 1989), 135.

enslaved Africans to the Spanish American empire. The British South Sea Company was granted the *asiento* contract and the company opened a wave of contraband through its newly gained legal access to Spanish colonies. Smuggling by the South Sea Company and private British and Anglo-American merchants drew the ire of Spain. Spain responded by unleashing *guardacostas* upon British shipping in the Caribbean. The activities of the South Sea Company, British merchants, and these *guardacostas* were some of the primary causes of rising tensions between Spain and Britain in the 1730s. The *guardacostas* caused public outrage in Britain because of the reports of “Spanish depredations” in British newspapers, magazines, and pamphlets. One of the stories that reached British newspapers has become synonymous with the conflict.

Robert Jenkins and the War between Spain and England

In March 1738, Captain Robert Jenkins reportedly appeared before a committee of the House of Commons to recount his horrifying encounter with a Spanish *guardacosta*.³ Jenkins claimed he was sailing from Jamaica in 1731 in the British brig *Rebecca* on a trading voyage when he was stopped by a Spanish *guardacosta* captained by Juan de León Fandiño. The Spanish officer demanded access to the ship’s stores in order to search for contraband goods and when Jenkins refused, the Spanish sailors allegedly tortured the English captain and his men. Jenkins said that he was hanged from the ship’s mast three times, the last with a cabin boy holding his feet. Finally, after searching the ship, the Spanish captain sliced off Jenkins’ ear with his cutlass and told him to take it to his king with the message that the same would happen to the monarch if the English would not relent in their illicit trade in Spanish dominions.⁴ Contemporaries said that Jenkins did just that and presented his ear, they claimed, “in a

³ Information on the actual testimony in 1738 is second-hand and comments about his testimony can be found in William Cobbett, *Cobbett’s Parliamentary History of England*, vol. 10 (London: T.C. Hansard, 1812): 638-640.

⁴ The most detailed accounts are from 1731 when the event occurred, printed in many of the major newspapers and in magazines. For examples, see *Pennsylvania Gazette*, 7 Oct. 1731 and *The Gentleman’s Magazine: Or, Monthly Intelligencer*, Jun. 1731; Various newspaper accounts stated that the Spanish Lieutenant Dorce cut off Jenkins’ ear, but historians have attributed it to Fandiño. See Edward Lawson, “What Became of the Man Who Cut Off Jenkins’ Ear?” *The Florida Historical Quarterly* 37, no. 1 (July 1958): 33-41.

box, and others [said] in a bottle.”⁵ After recounting Jenkins’ story, William Coxe expressed doubt as to whether Jenkins appeared before Parliament or that he was even disfigured by the Spanish. In 1796, Edmund Burke similarly expressed doubt about the event when commenting briefly on the 1739 war against Spain, calling the tale “the fable of Captain Jenkins’s ears.”⁶ The veracity of the account, however, did not matter much, especially regarding his appearance in Parliament.

The story of Robert Jenkins was a sensational piece of transatlantic news that seized on the prevailing negative sentiment in Britain toward the Spanish in regard to their policing of Caribbean waters. The story portrayed the Spanish as mere pirates who were robbing honest British merchants of both their legal cargo and personal items. Honest merchants again appeared as the embodiment of the English people, now victims to a foreign enemy. Historian Edward Lawson suggested, however, that “there was no doubt that the brig *Rebecca*...had been engaged in smuggling.”⁷ In addition to its cruel treatment of Jenkins, the *guardacosta*’s crew reportedly cut and beat an English boy who was Jenkins’ servant and then the Spaniards stripped the crew before sending them on their way.⁸ This news story joined many other British accounts that were collectively discussed as the “Spanish depredations,” which fueled public outrage and eventually pushed the two countries to war. The dramatic account of Robert Jenkins was embedded in British and Anglo-American public memory and the war that followed became popularly known in Britain and its colonies as The War of Jenkins’ Ear.

The War of Jenkins’ Ear, known as *La Guerra del Asiento* in Spain, lasted from 1739-1748 and merged with the larger War of the Austrian Succession from 1740-1748. There were many causes to the war, and the ear for which it was named was certainly only a minor concern. However, the story served as a symbol of the Spanish treatment of British sailors and, by extension, the British nation. Public

⁵ William Coxe, *Memoirs of the Life and Administration of Sir Robert Walpole, Earl of Orford* (London, 1798), 579.

⁶ Edmund Burke, *Two Letters Addressed to a Member of the Present Parliament, on the Proposals for Peace with the Regicide Directory of France* (London, 1796), 75.

⁷ Lawson, “What Became of the Man Who Cut Off Jenkins’ Ear?” 33.

⁸ *American Weekly Mercury*, 7 Oct. 1731.

sentiment was undoubtedly a powerful force pushing the England toward war with Spain. Early twentieth-century historians Gerald Hertz and Harold Temperley explored the public outrage that contributed to Prime Minister Walpole's reluctant decision to go to war, and there has been a significant body of scholarship on the affair since then. Temperley focused on a 1739 letter from Benjamin Keene, the envoy-extraordinary to the Spanish court, which stated that the Spanish ministers in Madrid were reading all of the British pamphlets which negatively characterized Spain.⁹ Temperley argued that these pamphlets and popular opinion could have been ignored if Walpole's foreign minister, the Duke of Newcastle, would not have acted in line with public outrage. The Duke's actions, he contends, "were directly due to the influence of popular opinion; it is quite certain that they caused the war."¹⁰ More recently, Philip Woodfine argues that the traditional British narrative of overwhelming public opinion leading to war is highly doubtful, though the "popular pressures on both the British and Spanish crowns and ministers" were still important.¹¹ Kathleen Wilson's book is more directly concerned with public sentiment, though it focuses specifically on the way Britons understood the empire. However, she contends that the Convention of Pardo, which was a negotiated agreement in 1739 to settle outstanding issues between England and Spain, "inflamed public opinion" in Britain and set the stage for the last steps to war later that year.¹² Britons were upset that the Convention had reduced claims made by British merchants against the Spanish government and it allowed limited search rights to the Spanish.

Public opinion is accepted as one of the significant factors that led to war in 1739, but Temperley, Woodfine, Wilson and other historians have overlooked important aspects of the British

⁹ Benjamin Keene played a critical role in the relationship between Spain and Britain throughout this period. He was an agent for the South Sea Company from 1723 to 1739 and was a diplomat in Madrid from 1724 through 1739. He negotiated the Treaty of Seville in 1729 and the Convention of Pardo of 1739.

¹⁰ Harold Temperley, "The Causes of the War of Jenkins' Ear, 1739," *Transactions of the Royal Historical Society* 3 (1909): 227.

¹¹ Philip Woodfine, *Britannia's Glories: The Walpole Ministry and the 1739 War with Spain* (Woodbridge: Boydell Press, 1998): 2.

¹² Kathleen Wilson, *The Sense of the People: Politics, Culture and Imperialism in England, 1715-1785* (New York: Cambridge University Press, 1995): 141.

print culture that influenced public sentiment. The public discourse and print culture surrounding the Spanish depredations were shaped by the rhetorical strategies of the political opposition to Prime Minister Robert Walpole. The popular attacks limited the options of the Walpole ministry and served to silence many of his supporters' counterclaims in the years leading to official negotiations and Parliamentary hearings. The practice of British merchants smuggling goods into Spanish America was the issue at the center of the controversy. However, admitting that British merchants were engaging in illegal trade was politically dangerous because of the charged public atmosphere. Newspapers, magazines, and pamphlets had been continuously relating accounts of the Spanish depredations for years, which highlighted alleged Spanish barbarity and cruelty in an attempt to show that the *guardacostas* were nothing more than pirates for the Spanish crown. This image of the Spaniard in British print leading to the war was an extension of the Black Legend. Historian William Maltby suggests that the extremely negative view of Spain "was accepted by a large portion of contemporary English society" by 1660 and the accounts of the 1720s and 1730s similarly show "greed and immorality, cruelty, treachery, and overweening pride" as stereotypical Spanish characteristics.¹³ The image spread even further and more quickly in the 1730s through the newspaper press that was constantly publishing stories across the empire that detailed the worst of the alleged Spanish depredations. The opposition press, especially through newspapers like *The Craftsman*, *London Evening Post*, and the *Daily Post*, flamed the outrage of the British public and attempted to stifle any claims, often presented in the ministry supported *Daily Gazetteer*, that British merchants were smuggling into Spanish America.

The discourse regarding contraband trade into Spanish America reveals the complicated perception of smugglers in Britain. Moreover, it shows the moral ambiguity of smuggling in British print culture, in which smugglers could be portrayed as a violent threat to stability of the domestic economy,

¹³ William S. Maltby, *The Black Legend in England: The Development of Anti-Spanish Sentiment, 1558-1660* (Durham, N.C.: Duke University Press, 1971), 132.

but their illicit activities seen as legitimate by many observers if illegal trade strengthened imperial commerce. The smugglers who threatened British industries, particularly the woolen industry, were reviled at home. However, smugglers who penetrated foreign markets and weakened Spanish monopolies across the Atlantic were defended as honest merchants and their illicit trade was often ignored or, in some cases, publicly celebrated. There were, of course, contemporaries who criticized smugglers trading with Spanish possessions because it threatened to incite Anglo-Spanish hostilities. Authors who attacked British merchants were denounced as anti-patriots by the opposition, leading to measured and subdued critiques of British commerce in the early 1730s. As war became seemingly unavoidable in 1739, there was a shift in the discourse. Ministry supporters went on the offensive and more vocally criticized alleged smugglers trading to Spanish America in an attempt to avoid a war. Ministry supporters and authors against the looming conflict were afraid that Britain would go to war on behalf of smugglers, and contrary to national interest.

The balance of power and of trade were two interconnected principles that drove British imperial policy in the eighteenth century. Policy was formulated to sway the balance of each to Britain's favor. In this light, the dual perception of smugglers becomes obvious. Domestic smugglers were criticized for supporting the French woolen industry, while diminishing the value of Britain's chief export. British smugglers into Spanish America expanded British shipping, opened colonial markets, and diminished Spain's economic potential by draining its colonies of specie and valuable trade goods. Smuggling in this case represented a facet of British imperial power, while in the former it was a boon to the French. Naturally, many contemporaries were ready to wink at the illicit trade and others were reluctant to attack British merchants and the merchant marine that were routinely acknowledged to be the source of the empire's strength. From a broad perspective, Spanish fury over illegal trade eventually forced English authors to defend or decry the smuggling problem, further developing the expanding discourse over eighteenth-century British smuggling.

Anglo-Spanish Relations in the Early Eighteenth Century

The War of Jenkins' Ear was one of a series of related conflicts between Britain and Spain in the eighteenth century. The empires had been competing for land, resources, and trade for hundreds of years, but the eighteenth century brought new concerns for western Europe. European relations and the goals of the British empire were different than they had been in the previous century. Historian Peggy Liss argues that the "Treaty of Utrecht in 1713 marked a watershed" by establishing "a balance of power" which was connected "to an English Atlantic hegemony."¹⁴ She further contends that England no longer valued territorial expansion in the way that had consumed European countries in the early colonial period, but rather they understood trade to be the all-important function of empire. It was this new conception of empire that led Britain to design the Treaty of Utrecht to secure "strategically and commercially important colonies" and access to Spanish American markets.¹⁵ Spain ceded Gibraltar and Minorca to Britain and granted them the right of *asiento* for thirty years. The Peace of Utrecht would be a critical factor in the tense relations between Britain and Spain throughout the eighteenth century (even into the twenty-first due to the status of Gibraltar), with the two countries going to war twice in the following fifteen years as Spain tried to recapture some of its lost territories. The *asiento* contract that Spain granted to Britain at Utrecht similarly became a point of contention for the two countries. The source of the conflict in the Caribbean, however, stemmed from the seventeenth century.

Anglo-Spanish interaction in the Caribbean before the 1650s was mostly defined by the internecine conflicts of privateers and other vessels that would be seen today (and then in most cases) as pirates. Henry Morgan, for example, operated with English license, whether granted in Jamaica or

¹⁴ Peggy Liss, *Atlantic Empires: The Network of Trade and Revolution, 1713-1826* (Baltimore: The John Hopkins University Press, 1983), 1.

¹⁵ *Ibid.*

implicitly endorsed by London. However, Oliver Cromwell sought to take valuable assets in the Spanish West Indies through his “Western Design,” with the English navy eventually taking Jamaica instead of his loftier goal of Hispaniola.¹⁶ The Treaty of Madrid in 1670 officially ended that Anglo-Spanish War. Spain officially ceded Jamaica to Britain. This, too, was a watershed moment. Spain recognized British possession of lands in the Caribbean for the first time and the treaty further confirmed the British right of navigation in American seas.¹⁷ The treaty’s provisions stipulated that the only cause for English ships stopping in Spanish ports, however, was reserved to ships in distress. Spanish negotiators were wary of this because it allowed English captains to feign emergencies and open avenues of illegal trade. Unsurprisingly, that was exactly what happened. The populations of Spanish American colonies desired European manufactures as much as the subjects of other crowns in the Americas and they also needed markets for their exports. Spain was not nearly able to satisfy the commercial needs of every region under its control, so various Spanish colonial populations turned to contraband trade with rival countries and empires, particularly the English, French, and Dutch.¹⁸

The Treaty of Utrecht brought further Spanish acknowledgment of British trading and shipping rights in American waters through the *asiento*. The *asiento*, or more specifically in this case the *asiento de negros*, as mentioned previously was a contract between the Spanish crown and an individual or company, which allowed the importation of a stipulated number of enslaved Africans in return for a payment to the Crown. The treaty also gave Britain “permission to send an annual trading ship to

¹⁶ The “Western Design” was the planned invasion of the Spanish West Indies during the Anglo-Spanish War from 1654-1660.

¹⁷ Frances Davenport, ed., *European Treaties bearing on the History of the United States and its Dependencies*, vol. 2 (Washington, D.C.: Carnegie Institution of Washington, 1929): 190-196.

¹⁸ For examples of diverse Spanish American regions engaging in contraband trade, see Juan Carlos Solórzano, “El comercio de Costa Rica durante el declive del comercio español y el desarrollo del contrabando inglés: periodo 1690-1750,” *Anuario de Estudios Centroamericanos* 20, no. 2 (1994): 71-119; Jesse Cromwell, *The Smugglers’ World: Illicit Trade and Atlantic Communities in Eighteenth-Century Venezuela* (Chapel Hill: North Carolina Press, 2018).

Spanish America, and promised to restore her commerce to the same footing as under the Habsburgs.”¹⁹ The British then granted these rights to the South Sea Company.

The South Sea Company was founded in 1711 as a public-private joint stock company that would assist in consolidating and diminishing the British national debt. The company was conceived by Chancellor of the Exchequer Robert Harley. The Company was to be funded by creditors of the British government, thus consolidating the debts owed by different governmental departments. Creditors would be issued stock in the company for transferring state debt. The Company would receive the monopoly on slave trading to Spanish America through the *asiento* and would receive an annual payment from the British government. This payment would decrease the national debt and the Company would pay dividends to the stockholders, thus repaying the original loans held by creditors. The dual public-private nature of the company, in addition to its acquisition of the *asiento*, meant it was tied to the government, but it operated largely as a private company.

The South Sea Company took full advantage of its ability to sail to Spanish ports by initiating a complex system of contraband trade. The Spanish were aware of the illicit trading, which was a constant source of agitation throughout the late 1720s and 1730s. Historian Vera Lee Brown illuminated the complexity of the company’s contraband system through documents in the Spanish archives. The documents revealed secret company meetings, coded information needing cyphers, and transatlantic coordination between company officials and their agents in Spanish America in order to sell smuggled goods in those colonies.²⁰ Most commonly, these methods involved the South Sea Company bribing local Spanish officials to allow the introduction of smuggled English goods. Interestingly, the Spanish government acquired these documents from South Sea Company agents by the late 1720s, so Spanish ministers approached later negotiations with full knowledge of the Company’s duplicity in its handling of

¹⁹ Lynch, *Bourbon Spain*, 36.

²⁰ Vera Lee Brown, “The South Sea Company and Contraband Trade,” *American Historical Review* 31, no. 4 (July 1926): 662-678.

the *asiento*.²¹ Almost all historians who have examined the origins of the War of Jenkins' Ear have placed significant blame on the South Sea Company, which is a logical assumption considering the company was a central concern in the official negotiations that preceded the war.²² In fact, its refusal to pay a lump sum of £68,000 as agreed upon in negotiations, which was for duties owed to the Spanish crown for sales of enslaved Africans as stipulated in the *asiento* contract, was one of the final straws that led to war. The company was extending British influence through trade, and therefore became a thorn in the side of the Spanish government that tried to retain its commercial monopoly despite the connivance of their own colonial subjects.

British subjects sailed and settled throughout the Caribbean and coast of the Spanish Main in search of plunder and trade goods throughout the sixteenth and seventeenth centuries. English pirates and privateers are certainly the most well-known of these fortune seekers, but many simply settled to profit from the natural resources or advantageous regional trade. For example, English logwood cutters settled in Tortuga off the north coast of Hispaniola as early as 1630 and by 1640 had begun settlements in Honduras.²³ Europeans desired logwood for its use in dyes and the tree was found in many parts of Central and South America. British desire for it was strong enough that they regularly intercepted Spanish logwood ships in the mid-seventeenth century, which was another issue regularly featured in Anglo-Spanish negotiations. The English continued to cut logwood in Spanish owned territory in the early eighteenth century and the official negotiations leading to the War of Jenkins' Ear addressed British right to cut logwood, though negotiators focused mostly to Campeche Bay on the Yucatán

²¹ Brown, "The South Sea Company and Contraband Trade," 662-663.

²² For further information on the South Sea Company in Anglo-Spanish relations, see, Temperley, "Causes of the War of Jenkins' Ear," 197-236; Ernest Hildner, Jr., "The Rôle of the South Sea Company in the Diplomacy Leading to the War of Jenkins' Ear, 1729-1739," *The Hispanic American Historical Review*, 18, no. 3 (August 1938): 322-341; George Nelson, "Contraband Trade under the Asiento, 1730-1739," *The American Historical Review* 51, no. 1 (October 1945): 55-67; Colin Palmer, *Human Cargoes: The British Slave Trade to Spanish America, 1700-1739* (Urbana: University of Illinois Press, 1981): 59-96.

²³ Alan Craig, "Logwood as a Factor in the Settlement of British Honduras," *Caribbean Studies* 9, no. 1 (April 1969): 55.

Peninsula.²⁴ In fact, Spanish captains onboard *guardacostas* would often seize a British ship simply for carrying logwood. If a *guardacosta* searched a British ship and found “pieces of eight, cocoa, or logwood,” the Spanish officers maintained that it was contraband and the ship would be seized.²⁵ While some of the rights claimed by the British in the Caribbean were not supported by treaty or law, this reasoning by *guardacostas* was also flawed, since none of these items strictly proved that a ship had traded in Spanish colonial territory, though it certainly indicated that it was likely.

Illegal trade constantly damaged the peaceful relationship between Britain and Spain, which was already contentious. British merchants and the South Sea Company continuously smuggled into Spanish colonies, and British actions simultaneously threatened the territorial integrity of the empire. Spain had already ceded Gibraltar and Minorca in the Treaty of Utrecht and then confronted a boundary dispute between Spanish Florida and Georgia after 1732, which exacerbated a longstanding border dispute that began with the establishment of Carolina in 1670. The border dispute contributed to the tension between the two empires, though Spain was primarily concerned with illegal trade.

Madrid’s heightened concern with smuggling stemmed from its ongoing attempts to reorganize and control its colonial trade, especially after the Peace of Utrecht. After 1717, Don José Patiño served as the *Intendente General de Marina* and the President of the *Tribunal de la Contratación* in the *Casa de la Contratación de las Indias* simultaneously and was therefore the man upon whose shoulders the weight of reorganization fell.²⁶ In fact, it was Patiño who created the infamous *guardacostas* that harassed British merchants in the Caribbean, though he formed the squadron of warships in response to widespread smuggling by several European nations, and not only Britain.²⁷ More precisely, Patiño created the *guardacostas* in reaction to a disastrous fair at Portobello in 1722.

²⁴ Temperley, “Causes of the War of Jenkins’ Ear,” 219.

²⁵ *Ibid.*, 206.

²⁶ For a full discussion of Patiño’s reforms, see Geoffrey Walker, *Spanish Politics and Imperial Trade, 1700-1789* (Bloomington: Indiana University Press, 1979): 95-173.

²⁷ Walker, *Spanish Politics and Imperial Trade*, 150.

Fairs held at Portobello, Cartagena, and Veracruz were vital to the Spanish colonial system as they provided the specie for the Spanish treasure fleets, or *galeones*. Spain would send fleets of ships to New Spain and Tierra Firme, the northern and southern regions of their mainland empire, respectively, to trade mostly European goods for American silver. Portobello in Panama was a fair that supplied Peruvian silver to the Spanish *galeones* and the merchants of Lima received European goods not produced in the colonies. However, Lima merchants had learned to do without official Spanish commerce through contraband trade with foreign smugglers and illicit commerce with New Spain.²⁸ They were unwilling and unable to pay premium prices in specie for the merchandize sent from Spain to the Portobello fair in 1722, which was an astounding failure. Geoffrey Walker notes that foreign smugglers, “including the English ‘Annual Ship’, the *Royal George*, were almost entirely to blame for the eventual failure of the fair,” and he further points out that “by far the greater part of the Peruvians’ money, intended for the trade with the *galeones*, was used in buying contraband goods from the foreigners.”²⁹ A combination of South Sea Company agents, private British merchants, Dutch, and French smugglers carried out this extensive contraband trade. Patiño made sure that the *guardacostas* were vigilant and caused the very outrages they did, but despite his unflinching stance on American trade he still desired the British as an ally if the problems between the two empires could be remedied peacefully.³⁰ Sir Robert Walpole, the first Prime Minister of England, similarly wanted to avoid war, in part because he “believed that British merchants prospered in times of peace,” though opposition to this stance and his administration more generally would eventually win out.³¹

²⁸ Walker, *Spanish Politics and Imperial Trade*, 137.

²⁹ *Ibid.*, 143.

³⁰ Lynch, *Bourbon Spain*, 134-136.

³¹ Allan Kuethe and Kenneth Andrien, *The Spanish Atlantic World in the Eighteenth Century: War and the Bourbon Reforms, 1713-1796* (New York: Cambridge University Press, 2014): 146.

Attempts at Rapprochement

When diplomats began negotiating solutions they focused on smuggling and British merchants' complaints against the *guardacostas*. Throughout the 1730s Robert Walpole encouraged and directed the negotiations in London that sought to put British merchants and Spain at ease. However, the Duke of Newcastle, Secretary of State Thomas Pelham-Holles, made several missteps in pushing the two countries to war, despite his desire to avoid open conflict. Arthur Stert carried out negotiations for the British in London under Walpole's direction in his official capacity as the commissioner for settling merchants' losses with Spain, a position to which he was appointed following the Treaty of Seville in 1729 that included an article stipulating that all unlawful seizures by *guardacostas* would be returned and repaid to the British. Thomas Fitzgerald, known as Don Geraldino, negotiated for the Spanish and had been operating as an official for them in various capacities in London for several years, including ambassador to London after Count Montijo left that position in 1737. Geraldino was also the Spanish director in the South Sea Company since the early 1730s. The *asiento* treaty that granted the contract to the company required a Spanish director in the company, but Geraldino gave up that position with the South Sea Company when he became the official representative for Spain in the negotiations in 1737. Keene, however, was both an agent of the South Sea Company and British ambassador in Madrid, making his tasks there much more difficult, as the interests of the company were not always aligned with those of Britain.

Stert and Geraldino began to negotiate a strictly financial settlement between the two countries. The British negotiated for the claims of their merchants who protested wrongfully seized ships and cargo, and the Spanish negotiated for payment from the South Sea Company as required by the *asiento* contract. After months of negotiations, it was preliminarily agreed that the Spanish government would pay £95,000 to Britain to settle claims by aggrieved merchants and the South Sea

Company would pay the £68,000 that it owed the King of Spain.³² These agreements were sent to Madrid to be further agreed upon by Keene and Sebastián de la Cuadra, who had become the Spanish Secretary of State after Patiño's death in 1736.³³ They agreed to the financial decisions of the preliminary convention in London and made concessions on the many issues that had plagued the two countries, such as agreeing to a commission to settle the border dispute between Florida and Georgia. However, the outstanding issues, such as British right to navigation without submitting to search by *guardacostas*, would not be officially resolved until the payments had been made. Afterward, further negotiations could take place for a new treaty between the countries. Keene and La Cuadra signed the Convention of Pardo in January of 1739 to be sent to the British Parliament.

Parliament approved the Convention, though it was a contentious issue. The South Sea Company, however, refused to pay the £68,000 and would not "produce their accounts" related to the profits of one of their ships, despite the demands of the Spanish Crown.³⁴ In fact, the Company found this agreement to be wholly unfavorable to them, as they had tried to be released from the contract for several years.³⁵ The British government sided with the South Sea Company and ordered Keene to state the Company's position to the Spanish government, namely that the Company directors would pay the £68,000 once the king of Spain satisfied outstanding Company demands for restitution on confiscated ships from several years prior. The Spanish Crown, in turn, refused to pay the £95,000 without payment from the South Sea Company, both on principle and because the crown was in a difficult financial position. Both sides became obstinate in their demands and the Convention of Pardo began to collapse. The British public became boisterous in their denunciations of the Spanish and the opposition in Parliament mirrored their fervor and disgust. Temperley suggested that the road to war was already

³² Hildner, "The Rôle of the South Sea Company," 334.

³³ Referred to as La Cuadra in older works and after March of 1739 as the Marquess of Villarías.

³⁴ Temperley, "Causes of the War of Jenkins' Ear," 224.

³⁵ Walker, *Spanish Politics and Imperial Trade*, 201.

solidified at the close of the Parliamentary debates concerning the Convention. The Duke of Newcastle ordered Admiral Haddock to return to Gibraltar with a squadron of warships, reversing his decision to remove that squadron from the Mediterranean, which had calmed tensions and led to negotiations. This was the move that historians suggested was influenced by public opinion. The order for Haddock to return to Gibraltar was given on “the last day of the Convention debate in the Commons.”³⁶ The commons debate was filled with fiery rhetoric concerning the Spanish that reflected the broader print culture surrounding the controversial Convention and the Spanish depredations more generally. Temperley argued that Newcastle revoked the order to withdraw Admiral Haddock’s fleet because of the public outcry against Spain and the opposition’s condemnation of the Convention in Parliament. Eventually, Newcastle’s decision to send the fleet of warships to Gibraltar and the South Sea Company’s refusal to pay its debt led the Spanish to make their own preparations for war. Britain declared war against Spain in October 1739 in response to Spanish preparations for conflict and their refusal to adhere to the Convention.

Historians agree that this wave of public sentiment, especially as reflected in the contemporary pamphlet literature, was significant in the road to war for the British. As mentioned, Temperley put an overwhelming significance on it, suggesting it influenced Newcastle’s brash decision making. Peggy Liss deferred to his argument in *Atlantic Empires* over seventy years later. Kathleen Wilson actually gave a somewhat more in-depth look at what he meant by “public opinion” when she referenced newspaper articles and pamphlets in her description of the “electric” reactions of the nation.³⁷ However, her examination is only cursory as she is concerned about a much larger time period and about the way Britons perceived their empire. Historians unfortunately have not fully explored the print culture surrounding the Spanish depredations, despite the fact that its tenor has been noted as a cause for the

³⁶ Temperley, “Causes of the War of Jenkins’ Ear,” 228.

³⁷ Wilson, *Sense of the People*, 141.

war. The discourse in pamphlet literature and newspapers reveal the ways authors attempted to silence Walpole's supporters. The opposition to Walpole pushed a rhetoric of patriotism in British print culture that severely curtailed the publicly acceptable options of the ministry. The opposition vehemently decried the depredations of the Spanish upon allegedly blameless British merchants who exercised the lawful right to sail between British possessions. These assertions were misleading. There were certainly merchants who were unjustly seized, but there were also plenty who were smuggling into Spanish territories. Nonetheless, the opposition arguments formed the basis of public discourse and it was politically dangerous to contradict the images of cruel Spaniards and innocent British victims, or to minimize the British right of free navigation. The British press printed stories that portrayed Spaniards as pirates operating throughout the Caribbean, terrorizing the South Seas and disrupting British trade. This print culture also reveals an interesting aspect of the broader discourse on smuggling. British smugglers who operated outside of the country, particularly those who gained access to restricted foreign markets and helped establish a more favorable balance of trade for Britain, were not demonized the way that those operating in Britain were. Authors denied that British merchants were smugglers and they were heralded as honest traders and victims of the Spanish barbarians. Similar to the broader smuggling discourse, this was a transatlantic print culture that influenced shared perspectives on smuggling in the era. Most references to British smuggling into Spanish America in the years leading to the Convention of Pardo were indirect. British authors defended their loyalty to Britain while suggesting that some of the Spanish seizures may have had merit, though authors were careful not to publicly denounce British merchants as smugglers. It was not until the war seemed inevitable in early 1739 that ministry supporters began to criticize British merchants more actively and openly.

Spanish Depredations and Public Discourse

The Caribbean could be a dangerous region in the early eighteenth century. Pirates still regularly harassed the shipping of all nations. European empires began to police the region more militantly

throughout this period. The *guardacostas* were just the latest escalation in attempts to curtail illegal activity. By the late 1720s, the opposition to Walpole was solidifying in Britain. Their voices were amplified by the *Craftsman* beginning in 1726, and Britons frequently complained about Spanish seizures. An anonymous pamphlet published in 1727 gives a sense of the discourse featuring common complaints from merchants after several years of activity by the *guardacostas*. The pamphlet, *Remarks on those Passages of the Letters of Ministers Lately Publish'd Which relate to the Hostilities committed by the Spanish Guarda-Costas*, was a response to the pamphlet mentioned in the title and it laid heavy criticisms on the Spanish. The author argued that British subjects in the West Indies were suffering in a way that those in Europe could not understand, as most British subjects enjoyed the benefits of peace that flowed from the Treaty of Utrecht. However, British merchants in the West Indies were limited by the peace because they did not have “the benefit of reprisals,” and could not defend “their property against the invasions of the subjects of Spain, by their guarda-costas.”³⁸ The author portrayed British merchants, especially the inhabitants of Jamaica, as victims, but also conveyed the image of the unthinkable cruel Spaniard, equivalent to the pirates of the day. In the author’s estimation, the Spanish were guilty of violating the 1670 Treaty of Madrid between England and Spain as well as the vaguely referenced Law of Nations, which writers used to support their various grievances. Worse still, he complained that the Spanish had “in many cases proceeded to violences and barbarities, not to be parallel’d but by pirates.”³⁹

The same anonymous critic also took issue with the right of seizure claimed by the Spanish. The main issue, after all, revolved around smuggling into and out of Spanish dominions in the circum-

³⁸ *Remarks on those Passages of the Letters of the Spanish Ministers, Lately Publish'd, Which Relate to the Hostilities Committed by the Spanish Guarda-Costas in the West-Indies, Since the Treaty of Utrecht* (London, 1727), 4.

³⁹ *Ibid.*, 5; Claims based on the Law of Nations in these disputes typically referenced, though not explicitly, Hugo Grotius’s work *Mare Liberum* which held that the seas were international territory and all nations had freedom of navigation.

Caribbean and beyond. The author denied British involvement in the smuggling trade to the extent that Spanish ships were simply aggressors in unwarranted acts of violence. He related two letters from Spanish ministers, which claimed that *guardacostas*' seizures were lawful because they had occurred in places that only would have been traversed by British merchants who traded in Spanish territories. Many British commentators condemned this line of reasoning, as it implied that Spanish *guardacostas* could determine acceptable avenues of navigation for British merchants. There is no doubt that *guardacostas* searched and seized smuggling vessels and fair traders alike, but British authors rarely admitted that this was the case. The author of this anonymous pamphlet argued against the ministers' assertions that no "specifick case" was shown to be unjustly seized and attempted to refute the claim.⁴⁰ The next twenty pages were a series of accounts of more than a dozen instances in which Spanish vessels were said to have seized British ships, confiscated their goods, and to have imprisoned, tortured, or killed those on board. The author never once mentioned or entertained the idea that a British ship might have been flouting the treaties between the two countries and trading unlawfully with Spanish colonies. He passionately called for war at the end of the pamphlet and drew the mind of the reader back to the monstrous and piratical image of the Spaniards, reminding his audience that the Spanish had disgraced Britain "by taking, plundering, imprisoning, torturing, and murdering the Subjects of this Crown."⁴¹ A petition to the king, issued by the Mayor, Aldermen, and Common Council of Bristol, reprinted in the *New-England Weekly Journal*, mirrored some of these sentiments. The petition argued that Spain acted "in defiance of the most solemn treaties, in contempt of the most highest obligations," and the *guardacostas* had been "so injurious to trade."⁴² It was trade with which the petitioners were

⁴⁰ *Remarks on those Passages of the Letters of the Spanish Ministers*, 12.

⁴¹ *Ibid.*, 35.

⁴² *New-England Weekly Journal*, 8 May 1727.

concerned and they asked for the defense of the West Indies trade, which had been diminished “by pyratival depredations.”⁴³

Authors used the violent imagery of piracy committed by a rival nation to further their political aims, particularly in opposition to Robert Walpole. The public disputes between supporters of the Walpole administration and its detractors were visible across most forms of print media. Interestingly, the two groups most involved in the confrontational, often polemical, discourse were mostly members of the Whig party. Walpole was the first and longest serving prime minister of England and dominated the government throughout the 1720s and 1730s. A group of Whigs that grew disillusioned with Walpole and his administration, many of whom Walpole intentionally isolated, formed the Patriot Whigs in 1725 and leveled consistent criticisms at the ministry for its handling of policies throughout the late 1720s and 1730s.⁴⁴ These opposition politicians were largely responsible for the defeat of a proposed excise tax in 1733, which they railed against in print through a series of opposition newspapers. William Pulteney, who would later become the Earl of Bath, was one of Walpole’s most prominent critics and battled the Prime Minister in print and in the House of Commons. Pulteney, alongside Henry St. John, 1st Viscount Bolingbroke, founded the newspaper *The Craftsman* in late 1726, which became one of the most influential political tools of the opposition through the pens of Pulteney and the disgraced Tory politician Bolingbroke who had recently returned from exile. The paper, which circulated outside of London under the name *Country Journal or the Craftsman*, joined the *London Evening Post*, *Daily Post*, *Fog’s Weekly Journal*, and *Common Sense* in their popular opposition to the Walpole ministry.⁴⁵ These papers, led by the *Craftsman*, contributed to a consistent discourse which attacked anyone who

⁴³ *New-England Weekly Journal*, 8 May 1727.

⁴⁴ Basil Williams, *The Whig Supremacy, 1714-1760*, 2nd ed. (Oxford: Oxford University Press, 1962), 203.

⁴⁵ Michael Harris, *London Newspapers in the Age of Walpole: A Study of the Origins of the Modern English Press* (Cranbury: Associated University Presses, 1987), 121; Williams, *Whig Supremacy*, 205.

suggested that British merchants were smuggling in the Caribbean trade, and painted the *guardacostas* as state-sponsored pirates.

Walpole, of course, still had supporters who defended his ministry. An anonymous pamphlet published in 1733 was written to William Pulteney and represented, in part, the rhetorical strategy of Walpole's supporters in the middle of the decade. The first half of the relatively short pamphlet defended the ministry's diplomacy throughout the 1720s, specifically commenting on its handling of the Treaty of Seville in 1729 as a countermeasure to an alliance between Spain and the Holy Roman Empire. Throughout the author's explication of the benefits of the 1729 treaty, he consistently argued against the polemic stance that the *Craftsman* had taken against the ministry. He then turned to the issue of *guardacostas* and stated that the Treaty of Seville, having initiated the process for restitution for unlawful seizures, was the proper step toward settling the issue. The author also notably related a case when Admiral Charles Stewart commanded a naval force to sail to Havana and Campeche to demand reparations for Jamaican merchants. One of these British Men of War, the *Deal-Castle*, took a Spanish merchant ship near Campeche "as a reprisal" for continued seizures by *guardacostas* to South Carolina, which "proved satisfactory to the colonies in the [British] West-Indies, and has so much abated the fury of the guarda costas, that hostilities are quite ceased."⁴⁶ The anecdote served as a way to downplay the images of the helpless British merchant victim and the defenseless English Caribbean colonists that was so often employed by the opposition press, and therefore to show that Walpole was effectively promoting "the interest of the nation" in foreign affairs.⁴⁷ The rest of the pamphlet contained a series of attacks against the *Craftsman's* polemical writers; the author wrote that one of its contributors "frets and foams, and rants and raves, 'till he is quite giddy with lying and scolding."⁴⁸ While the author

⁴⁶ *A letter to William Pulteney, Esq, Concerning the Administration of Affairs in Great Britain for Several Years Passed, and the Present State Thereof, with Observations on our Polemical Writers* (London, 1733), 10.

⁴⁷ *Ibid.*, 11.

⁴⁸ *Ibid.*, 18.

attacked opposition writers, he defended his patriotism, as opposition writers painted any critics as enemies to true patriots. He also downplayed the opposition's images of the victimized merchants and the unchecked Spanish depredations. Instead, he suggested that "hostilities are ceased on the part of Spain; the merchant enjoys a free trade."⁴⁹ What is conspicuously absent, however, is an admission that British merchants were smuggling into Spanish America and, consequently, that any of the actions by the *guardacostas* were legitimate. The opposition's rhetorical strategy made that a dangerous assertion to make.

The Treaty of Seville, which the anonymous author praised, was at the forefront of discourse in 1733 because of a clause which called for the restitution of wrongfully seized property by the offending nation. The time period in which restitution should have been negotiated had lapsed and the opposition seized on this. In addition to pamphlets and newspapers printing opinions on the topic, the issue was debated in Parliament with a notable exchange between Walpole and Pulteney. An excerpt of the debate was printed in the *London Magazine*, which was then reprinted in Boston in *The Weekly Rehearsal*. Walpole clarified that the negotiations for reparations had not yet taken place because of a series of incidents that had prevented commissioners from meeting, but that negotiations would move ahead and he expected "full reparation to every subject of Great Britain, who has met with a real injury from the Spaniards."⁵⁰ Walpole obviously suggested that there were complaints by British merchants that were not just, and that there were lawful seizures against smugglers by the Spanish *guardacostas*. Pulteney, however, focused on both the suffering of British subjects and the injury to the nation. He supported a motion that would require reports on the state of the reparations to be brought to Parliament and asserted that the Commons had a "concern for the merchants who have been so great

⁴⁹ *A Letter to William Pulteney*, 9.

⁵⁰ *London Magazine*, Aug. 1733; *Weekly Rehearsal*, 17 Dec. 1733.

sufferers by the depredations of the Spaniards.”⁵¹ He then related an incident from the previous year, which illustrated the rhetoric of the Patriot Whigs:

Our having taken notice, in the last session, of the Spanish Depredations, procured, I believe, Sir, those Commissions and instructions which were last summer sent to our ships of War in the West Indies. That, I believe, Sir, was the chief cause of sending some of our ships to the Spanish coast to demand satisfactions for English merchant ships which they had violently taken, and unjustly confiscated. One of these Captains did accordingly in pursuance of his instructions send his boat with his Lieutenant and some of his sailors on shoar to demand satisfaction; but the Spaniards were so far from complying with so just a demand that they added a new affront, and made the Lieutenant and the men prisoners; whereupon he, like a brave, honest, downright English Captain, did what he ought to do, he seized the first Spanish ship he could meet with: but I have been since informed that the Spanish ship has been restored, tho’ the English ship has neither been restored, nor have the owners met with any satisfaction for their damage and loss.⁵²

Pulteney touted British patriotism by emphasizing Spanish insolence in the West Indies. He lamented the capitulation of the Walpole ministry, while praising bravery and honesty of British subjects trading in the Caribbean. This rhetorical strategy would intensify in the ensuing years as Spanish *guardacostas* continued to defend their coasts against incursions by foreign smugglers.

Despite Walpole’s diplomatic and political maneuvers to calm the situation, the press continued to print fresh outrages allegedly committed by the Spaniards and denounce anyone who suggested that British merchants were guilty of smuggling. A long piece in the *Weekly Miscellany*, transcribed from an unnamed daily paper, was reflective of the broader press coverage. Mostly it was an excerpt of a letter from St. Kitts apprising London readers of the ongoing situation in the Caribbean. The letter opened plainly, “The Spaniards continue their former depredations, with all the cruelty and insolence of Pirates.”⁵³ The letter then described an assault by a Spanish ship that seized two British ships. An unnamed British officer was unable to apprehend the offenders because they made it to a harbor in Puerto Rico. The “pirate,” as the letter refers to the Spaniard, had reportedly taken as many as eight

⁵¹ *London Magazine*, Aug. 1733.

⁵² *Ibid.*

⁵³ *Weekly Miscellany*, 10 May 1735.

ships based in various British Caribbean possessions. Shipmasters called for better protection of merchant ships and to find and punish the captain who seized the ships, but it was reported that “this rogue...has a commission from the Governor of Porto Rico.”⁵⁴ Such actions by Spanish colonial governors were a major point of contention in the negotiations that eventually led to war. Spanish ministers knew that their colonial governors sometimes over-policed their territorial waters, but ministers were unwilling to punish their officials if Britain was unwilling to punish its smugglers.⁵⁵ For the author of an item in the *Weekly Miscellany*, there were Britons who were as vile as Spanish governors or *guardacostas*. In the text that followed the St. Kitts letter, the author speculated that Londoners who thought any of the Spanish seizures were justified were simply in league with the Spaniards:

When one hears certain gentlemen in this populous city, in daily conversation, for ends best known to themselves, continually vindicating these depredations, and treating their countrymen as interlopers, smugglers, and unfair traders, and deserving of the hard fate they meet with, one would be tempted to think these Spanish Governors, and they, are under some private contract to divide the spoils between them.⁵⁶

The author’s sarcastic jibe was absurd. The belief that British merchants smuggled into Spanish America was a reasonable assumption. Britons had witnessed the dramatic rise of illegal trade at home through four decades of press coverage. However, the suggestion followed the established rhetoric concerning the events in the Caribbean and extended the logic, suggesting that an acceptance of the Spanish position was beyond unpatriotic, it was possibly a sign of treason and evidence that Britons were profiting from the theft of British trade and torture of their fellow subjects.

Relations between Spain and Britain became critical by 1737 as was reflected in print and in Parliament. The British transatlantic press continually printed updates to the situation. Newspapers published petitions to the king by merchants, diplomatic updates from Madrid, apparent warlike preparations by Spain, and a simultaneous escalation of tension between the Dutch and Spanish due to

⁵⁴ *Weekly Miscellany*, 10 May 1735.

⁵⁵ Temperley, “Causes of the War of Jenkins’ Ear,” 221.

⁵⁶ *Weekly Miscellany*, 10 May 1735.

activity of the *guardacostas*.⁵⁷ Newspaper readers were also informed of new accounts of “the piratical treatment of the Spaniards, both to ship and crew,” of British merchants.⁵⁸ In this particular account a British captain was apparently forced to sleep on the upper deck of his ship for ten days after his cargo was seized and distributed to Spanish ships. Eventually, authors began demanding aggressive action from the British ministry.

A pamphlet penned by an author who described himself as a merchant from London trading to America called explicitly for a war against Spain. The author condemned anyone who would suggest that British subjects could be guilty of breaking with the treaties between Spain and Britain. He asked his readers, how “any Britons could be so weak, or rather so wicked as either to deny or justify the Spanish Depredations?”⁵⁹ Moreover, he referred to those who were in favor of peace with the Spanish, or even an alliance like the ministry had hoped for, as “Writers in Favour of the Depredations,” and claimed that they had “no regard either to truth or decency.”⁶⁰ The author argued that war was justified by Spanish insolence in the West Indies and that arguments against a war were almost treasonous. This rhetorical strategy relied on the image of honest British merchants, so the contraband trade was denied or ignored.

Many British subjects knew that smugglers were infiltrating Spanish markets, but the ability to argue that position in public was curtailed by the opposition’s polemical rhetoric. Benjamin Keene leveled criticism at the boisterous calls for war and restitution in a private letter to the British

⁵⁷ Temperley suggested that seizures were not as high a concern for the Dutch and although they did not go to war and were not interested in joining preparations for war with the British, they began taking reprisals and it was a consistent point of concern for the States General. See *Boston News-Letter*, 24 Mar. 1737; *Boston News-Letter*, 28 Jul. 1737.

⁵⁸ *Boston News-Letter*, 22 Dec. 1737.

⁵⁹ *Reasons for a War Against Spain. In a Letter from a Merchant of London Trading to America, to a Member of the House of Commons. With a Plan of Operations* (London, 1737), 10-11.

⁶⁰ *Ibid.*, 11.

ambassador in Paris, Lord Waldegrave, in December of 1737. After having to forward complaints and claims of British merchants to Spanish ministers, he wrote:

Then my God what proofs! At most they can only be regarded as foundations for complaints, but not for decisions for restitution, must there not be an audi et alteram partem? Are the oaths of fellows that forswear themselves at every custom-house in every port they come to, to be taken without any further enquiry or examination, what should we say to a bawling Spaniard who had made a derelict of his ship at Jamaica, & afterwards swore blood and murder against the English before the Mayor of Bilbao?⁶¹

Keene clearly understood that many British claims were being over-stated. He references the known British penchant for smuggling at home, implying that merchants were as likely to smuggle abroad. He felt comfortable putting this in writing, though it was a private correspondence to a friend, which indicates that he felt the comment would be well received. Ministers and the public knew that smugglers operated anywhere there were markets and restrictions on trade, including Spanish colonies. The public discourse on the matter, however, had developed in such a way that this comment would have been a disastrous misstep if made public.

Walpole's supporters, or those in favor of peace more generally, had to take a cautious approach in the press. Raphael Courteville, whose letters were published in the *Daily Gazetteer* under the name R. Freeman, defended a peace strategy despite likely attacks by the opposition.⁶² He chastised the opposition's vehement push to war, arguing that it was a free people's right to comment on public affairs, "but for a set of men full of envy, resentment, and ambition to pretend to dictate to their governors what they shall do, under pain of incurring public hate" was "a flagrant offense."⁶³ This was, of course, the success of the opposition, which was directing Britons' frustrations toward the Walpole

⁶¹ Benjamin Keene to James Waldegrave, 13 Dec. 1737, quoted in Pares, *War and Trade*, 25.

⁶² The *Daily Gazetteer* was a pro-ministry paper founded in 1735 and Ralph Freeman was one of its regular contributors. Ralph Freeman [R. Freeman] was apparently Raphael Courteville. See, John F. Speer, "The Identity of 'Ralph Freeman,'" *Modern Language Notes* 67, no. 2 (Feb. 1952): 118-120. For a discussion of pro-ministry newspapers and Walpole's use of the newspaper industry for official propaganda, see Harris, *London Newspapers in the Age of Walpole*, 116-126.

⁶³ *Daily Gazetteer*, 30 Dec. 1737.

administration. Courteville then turned specifically to the issue of the *guardacostas*. There was a proper way of addressing the grievances of the merchants, he asserted. They would still receive reparation for their damages in due time if they were deemed just, but he argued that British subjects should not push for war because of the slow pace of the Spanish court. He carefully avoided directly claiming that British merchants were smuggling, but he defended the rights of nations to defend their coasts. He pointed to Britain's own defense of its coasts and specifically to the protection of Irish coasts against smuggling wool out of the country. These were the rights of all nations, Courteville assured his readers. As for the injuries to the merchants, which the opposition portrayed as inhuman, barbaric, and almost unmatched in their cruelty, he reminded readers that Spain had been the victim to English buccaneers in the not-so-distant past. He reaffirmed that Britain had the right to demand satisfaction from Spain for unjust seizures, but that demand must be proved before taking more drastic measures. Otherwise, the opposition, of which he named *Common Sense* and the *Craftsman* specifically, was driving the country to hostilities without proof of just cause and he implied that a war would be on behalf of smugglers instead of in defense of lawful British trade.

Nicholas Amhurst, the editor of the *Craftsman*, responded under his pseudonym Caleb D'Anvers, criticizing Courteville just as the latter anticipated. Courteville addressed the attack by Amhurst in a letter the following day, inserting a quote from the *Craftsman*, which called Courteville a "worthy Anti-Patriot" and said he "asserted in the *Gazetteer* of Dec. the 30th last, that satisfaction hath not been denied where an unjust Spanish capture hath been proved."⁶⁴ Courteville clarified his original argument, stating that the Spanish were not refusing restitution, but rather first demanding that it should be proved just. Moreover, he affirmed that Spain clearly confirmed the lawfulness of many petitions by agreeing to a commission to determine reparations. However, he emphasized again that it was foolish to go to war because of Spanish diplomacy's dilatory pace. Reparations, he assured readers,

⁶⁴ *Daily Gazetteer*, 1 Jan. 1738.

would be paid to owners of illegally seized ships in due time. Courteville further shielded himself against the insinuation that he was defending the Spanish government. He was not the only author to have to make this defense, as the opposition writers equated the desire for peaceful resolution or support of the Walpole ministry with the defense of the Spanish position. In response to the accusation, he asked, “have I defended Spain? have I apologized for the Spanish Administration? No. All I have offer’d, have been in defence of our proceedings at home, in justification of his Majesty’s wise gentle government.”⁶⁵ Of course the reasonableness of his position did not matter. He defended Walpole’s ministry and that was enough for the opposition to label him an anti-patriot.

In March 1738 Parliament heard petitions, one of which was said to be Captain Robert Jenkins with his famous ear, while the House of Commons debated the matter of Spanish depredations in the West Indies. Petitions had been flowing into London for years by this point, but the debate in 1738 provides a direct view on the ways William Pulteney and Robert Walpole respectively promoted their causes and how the public denial of British smuggling had shaped the discourse. The debate in Parliament began before the petitions were even heard. The constitutional issue was whether they would be presented by the petitioners themselves or by their counsel. Sir William Wyndham and Sir John Barnard argued for the opposition in favor of personal petitions, that is petitioners representing themselves, before Sir Robert Walpole spoke against them. Walpole contended that counsel should deliver the petitions so that they would be “grounded on facts” and “fairly represented,” rather than “artfully aggravated” by the passions of the petitioners.⁶⁶ He was attempting to curtail the type of fervor that Jenkins allegedly created. Walpole knew that the opposition would seize on the imagery that personal petitions would conjure. The poor British victim and the cruel and barbarous piratical Spaniards would be presented on the parliamentary floor. Pulteney of course argued on behalf of the petitioners

⁶⁵ *Daily Gazetteer*, 1 Jan. 1738.

⁶⁶ Cobbett, *Parliamentary History*, 572.

and vaguely attributed an unacceptable suggestion to those who did not wish to hear the petitioners themselves. He said that the petitioners were not “as has been suggested, an impotent clamour of a few smugglers, whose effects have been justly sequestered for carrying on an illicit trade,” rather they were humble and loyal British merchants who had fallen victim to the Spanish.⁶⁷ Walpole had to push his case carefully, arguing that the facts would prevail and that passion ought to be left out of such a delicate matter, but Pulteney was able to shape the debate in line with prevailing public discourse. He even imputed some criticisms of the petitioners to his political enemies, though Walpole and his supporters had not openly suggested that the petitioners were smugglers. The mere suggestion that the Commons should hear the facts of the matter from disinterested parties was intentionally misrepresented as an implication of guilt on the part of British merchants.

The merchants eventually delivered the petitions themselves and the accounts that had been published in the press for over a decade were heard in Parliament. Pulteney argued for resolutions that asserted British right to free navigation in the Americas. He was pushing Parliament and the country as hard as possible to begin conflict with the Spanish while Walpole was desperately attempting to prevent a war. However, like the ministry’s supporters in the press, Walpole had to take a cautious approach and was limited by the prevailing state of discourse. He had to agree that British merchants had been unjustly seized (which, of course, some were), that the British nation had the right to navigate freely in American seas between British crown possessions, and that merchants could justly carry any type of good in peacetime. This contradicted the *guardacostas’* logic of search and seizure, which maintained that certain goods, such as cocoa or Spanish coins, indicated they had traded with Spanish subjects in the Americas. He did, however, avoid condemning the Spanish outright and he continued to guide the country toward a treaty of peace, rather than Parliamentary resolutions that declared British rights, which he argued amounted to an act of hostility. Pulteney called upon Parliament to pass these very

⁶⁷ Cobbett, *Parliamentary History*, 577.

resolutions, clearly in defiance of the Walpole ministry and as a goad to the Spanish, further criticizing Spain by opening his speech with reminders of “the amazing instances of cruelty, barbarity and injustice” that had “been exercised by the Spaniards upon his Majesty’s subjects.”⁶⁸ Walpole understood that the resolutions would only have the effect of bolstering public opinion on its obstinate attitude toward Spain, as a resolution of the British Parliament had no relevance in international law. In fact, it would undoubtedly undermine future negotiations that attempted to secure those very rights in a treaty between the two countries.

Walpole was limited in what he could say on the matter. He related that he “always shewed a very great regard for the merchants trading to and from” British plantations and that he believed the petitioners had “fully proved their losses” from depredations “contrary to the law of nations, [and] contrary to the treaties subsisting between the two crowns.”⁶⁹ However, he was careful to avoid the violent imagery that he saw as incensing the populace and leading the country to a war that was ill advised. After all, the Spanish admitted fault on the part of their governors and *guardacostas* and eventually agreed to pay for unjust seizures. His goal was now simply to suppress the fiery rhetoric until an official accord could be properly negotiated.

While Walpole was trying to avoid the possibility of war between Spain and Britain in his Parliamentary debates, newspapers and pamphlets were creating an increasingly negative and hostile public perception of Anglo-Spanish relations. On March 4, the *Craftsman* published a letter to the editor, which commented at length about the plight of British merchants in America. The author may have been Pulteney himself, because the rhetoric employed in it mirrored much of Pulteney’s speech in the Commons. The letter called upon readers to feel the insult suffered by the merchant, because the *guardacostas* were not acting only against the fair traders of Britain, but rather against the entire

⁶⁸ Cobbett, *Parliamentary History*, 643.

⁶⁹ Cobbett, *Parliamentary History*, 665-666.

nation. He further emphasized the association with pirates, declaring the Spanish in the West Indies to be “accessories of piracy.”⁷⁰ The calls for retribution became more passionate and more pronounced after the merchants delivered their petitions and the Commons debated the issue.

On March 30, the anti-ministerial *Daily Post* published a letter signed by George Cutlas, apparently a British sailor, which heightened the violent imagery of the Spaniards. He placed blame for the predicament of British sailors not only upon the cruelty of the Spanish, but also on the inaction of the British government. This was notably one of the rhetorical strategies Pulteney employed at the same time in Parliament. Cutlas claimed that a fellow sailor, Luke Jefferson, was “iron’d in a Spanish jale” with other British sailors, where “they are feeding upon magots for their daily subsistence, and swarms of lice feeding upon them.”⁷¹ How could the British allow this to happen, he asked, and “how long must this be bore” at the hands of the “popish” Spaniards?⁷² As with much of the oppositional rhetoric, like that in the *Craftsman*, he called upon his readers’ nationalistic feelings. Cutlas did not stop at relating the horrors visited upon the British at the hands of the Spanish. He claimed that there were even British subjects so treasonous as to “boulster up the Spaniards against us Englishmen.”⁷³ He singled out a man, Reverend Paul Crape, who had written in support of the Walpole ministry, and claimed Crape said “they [the Spanish] are in the rite in robbing and plundering our merchants” and even further defended “them same Spaniards for abusing and making slaves of us, and cutting off the ears of our commanders.”⁷⁴ The polemic’s implication was clear, as there could be no middle ground in the discourse concerning the Spanish; to resist the path to war was to support the Spanish and to abandon British sailors to a horrid fate in an enemy dungeon. Cutlas lent further weight to his emotional argument with the inclusion of a letter, allegedly written by Luke Jefferson to his wife. The brief letter confirms Jefferson’s plight of

⁷⁰ *Craftsman*, 4 Mar. 1738.

⁷¹ *Daily Post*, 15 Mar. 1738.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ *Ibid.*

eating “beans full of vermin” while he and his fellow sailors “had irons about [their] legs.”⁷⁵ The *Daily Post* printer inserted brief comments following the two letters, in which he attempted to clarify the gravity of the situation to his readers. The plight of these men, he claimed, was how the Spaniards repaid the kindness and friendship of the British. In turn, Britain must “surely think it high time to break” with Spain and to gain restitution and justice through force of arms.⁷⁶ The call for war following these letters was published in the *London Evening Post* as well, both papers printed by Richard Nutt.⁷⁷

An article in *Old Common Sense* purported to weigh reasonably the two options that faced Britain, between diplomatic resolution or war, but the text revealed that war was the only option that Britain should consider. In the author’s critique of possible negotiation, he stated simply that Spain had “demands of so high and exorbitant a nature” that they precluded a reasonable peace.⁷⁸ A war, he continued, was “still the only alternative” for a great nation like Britain.⁷⁹ Opposition writers were predisposing the public to war. These authors suggested that a peaceful resolution was manifestly against the interests of the nation. Interestingly, authors for papers that had shown steady support for the Walpole administration, the *Daily Gazetteer* in particular, became less aggressive in their defense. It had become increasingly unpopular to argue for peace through negotiation since it was attributed to acceptance of the Spanish position, as evident by the *Gazetteer* article mentioned earlier.

The opposition utilized patriotism to incite popular demand for war and to suppress any reasoned discussion on British smuggling in the Spanish West Indies. Additionally, authors argued that the war was not only just, but that Britain would crush Spain. Newspapers and pamphlets printed in 1738 and 1739 contained a wave of this type of patriotic rhetoric that the ministry’s supporters were not able to match. The opposition writers who pushed these lines of argument focused on Spanish

⁷⁵ *Daily Post*, 15 Mar. 1738.

⁷⁶ *Ibid.*

⁷⁷ *London Evening Post*, 14-16 Mar. 1738.

⁷⁸ *Old Common Sense*, 18 Mar. 1738.

⁷⁹ *Ibid.*

injustices relative to British rights, and they exalted English naval might. Moreover, they attempted to draw upon the historical Anglo-Spanish rivalry, showing that Spain was a persistent antagonist to English success and that the depredations were nothing new in the relationship between the two countries.

The so-called “fresh outrages” poured into London and from there flowed through the network of newspaper presses throughout the country and back across the Atlantic. Direct accounts served to humanize the suffering of British merchants by adding to or embellishing notorious stories, such as Jenkins’, that enraged the transatlantic public. A letter printed in the *Gentleman’s Magazine* and reprinted in the *New York Gazette*, from “one of the unfortunate sufferers by the depredations of the Spaniards,” lambasted the inaction of the government and denounced a letter printed in the *Daily Gazetteer* signed by “mercenary----writer and Spanish advocate” Paul Crape.⁸⁰ The author argued that Crape had justified “the most flagrant rapine and villainy that ever was committed by the subjects of one nation on another in amity with them,” but asserted that he would not have done so unless he were supported by others in high positions who spoke the same way, insinuating that Crape had ministerial backing.⁸¹ The author further claimed that Crape and the unnamed ministers painted honest British merchants as “a parcel of illicit traders, lawless robbers, and invaders of the Spaniards property, and therefore unworthy of protection, or reparation” for their losses.⁸²

The proceedings in Parliament made their way to the London press and through the empire, continuing to darken the image of the Spaniards and assert the lawful actions of British merchants (and Spanish illegal and inhuman actions). Most accounts at least showed that the alleged Spanish cruelty was confined to the West Indies. The *guardacostas* that harassed British shipping were commissioned by local governments, while Madrid only could be criticized legitimately for acting too slowly to address British complaints. Some, however, extended the barbaric characterization to Spain itself. One account,

⁸⁰ *Gentleman’s Magazine*, Jan. 1738; *New York Gazette*, 21 May 1738.

⁸¹ *Gentleman’s Magazine*, Jan. 1738.

⁸² *Ibid.*

reprinted in the *American Weekly Mercury*, related the petitions of merchants who complained to Parliament of the continued Spanish depredations, “whilst they were carrying on their fair and lawful trade in those parts.”⁸³ Moreover, these petitioners claimed that the vessels’ captains were still prisoners in the West Indies “and the crews are now in slavery in Old Spain, where they are most inhumanly treated, and that, that Cruel Nation make it their practice to attack and board all British merchants ships they meet with in the American seas.”⁸⁴ The imprisonment and enslavement of British mariners became one of the most powerful images in the final years leading to war, showing the lasting association of Jenkins’ ear with the patriotic fervor.

One letter in the *Daily Post*, reprinted in the *Boston News-Letter*, further attacked Spanish diplomats as well as “a set of Spanioliz’d Britons” who suggested that the Spanish position had merit.⁸⁵ In addition to the conduct of the Spanish in America, the author wrote that Spaniards in Europe “have not only call’d our West-India merchants illicit traders and smugglers, but now they dub them as thieves, and say they have by their smuggling in the West Indies stole thirty times” what they have lost by the *guardacostas*.⁸⁶ Worse still, the author harshly criticized Spanish ministers who said that British subjects did not lie in Spanish cells. He then celebrated rising British patriotism, the “antient British Blood manifesting it self in the veins of our Representatives,” which was stirred equally by depredations and sympathy for “their countrymen and fellow subjects still groaning in the fetters and dungeons of Spain.”⁸⁷ While this author was more sympathetic than others to the government’s attempts to secure reparations, he criticized the ministry’s supporters for exalting the honor of Spain, suggesting that if Europe believes the “honour of the Spaniards” then they would believe the “epithets of smugglers and

⁸³ *American Weekly Mercury*, 8 Jun. 1738.

⁸⁴ *Ibid.*

⁸⁵ *Boston News-Letter*, 10 Aug. 1738.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

thieves” that they had cast upon the British.⁸⁸ All the while *guardacostas* continued with the so-called depredations, even as British ministers demanded justice in Madrid. Readers could follow these continued seizures, which were publicized throughout the empire alongside lists of British ships taken, with one article printing a list of all ships taken since mid-1728.⁸⁹

News of deteriorating relations and a possible impending war met with doubt from some Britons and patriotic clamor from others. Newspaper printers related the preparations for war, such as Admiral Haddock returning to the Mediterranean, though some authors claimed that many Britons doubted war would come and that they hoped for positive news from Keene in Madrid.⁹⁰ However, many others exalted British glory and recalled the nation’s historic victories as they anticipated a quick war against a haughty enemy. A short piece in the *Dublin Journal* noted that George II was upset at Spanish responses to his overtures and was going to leave the matter up to Parliament, which already had a strong war mongering faction. The author reflected on the situation with some excitement, stating that Britons had “great reason to hope, that a naval force will procure the merchants the desired satisfaction, and bring Jack Spaniard to obedience.”⁹¹ The patriotic demand for war was constant throughout the last half of the year, inserted into numerous papers at every opportunity. One printer added a note at the end of a letter that recounted a resounding Russian military victory over Tartars, predicting “when we take the Spaniards as heartily to task for 24 years of depredations on our West-India merchants, we shall soon make them participate of the justly deserved fate of the Tartars.”⁹²

The *London Evening Post* continued its rivalry with the *Daily Gazetteer*, and more specifically its mocking critiques of the letters from “Mr. Freeman.” Courteville had called for peace between the factions of Great Britain, asking for an end to the verbal assaults in the press. The *London Evening Post*

⁸⁸ *Boston News-Letter*, 10 Aug. 1738.

⁸⁹ Virginian ship seized, *Virginia Gazette*, 15 Sept. 1738; List of seizures, *New-York Weekly Journal*, 7 Aug. 1738.

⁹⁰ *Virginia Gazette*, 22 Sept. 1738.

⁹¹ *Dublin Journal*, 1 Apr. 1738; *New-York Weekly Journal*, 24 Jul. 1738; *Boston Evening-Post*, 24 Jul. 1738.

⁹² *New York Gazette*, 11 Sept. 1738.

author agreed and suggested that Britain "unite in revenging our Country's wrongs; Britons ought to know no adversaries at present but the Spaniards, and such as either vindicate their depredations, or underhand endeavour to prevent the chastisement they deserve from us."⁹³ The author seized on Courteville's perceived passivity and assured readers that immediate war was the only recourse for proud Britons. Allowing the Spanish court to delay under pretense of waiting for news from its colonies would only allow Spain to prepare for war. The author referenced several instances wherein Louis XIV was offended by rivals and through immediate and drastic action made his enemies supplicate at his court. Were Britons the only people who would not take actions against the wrongs committed against them? Was France the only country able to demand redress from its enemies? Immediate action, he assured again, was the only way; he proposed to give Spain a week's time to offer proper satisfaction or face the consequences. The war, many believed, would be swift due to Britain's superior naval power. One account noted that Britain had more Men of War than France, Spain, and Holland, which was "a secret satisfaction to every True Briton."⁹⁴

In late 1738 opposition papers focused on those who defended the Spanish court's slow proceedings and similarly criticized authors who supported a peaceful resolution with Spain. In the hyper-patriotic view, Spain would pay for its insolence, British merchants would be restored to their rightful place as the support of the nation, and Britain would reclaim its honor that had been stained by decades of depredations. One opposition author stated the position clearly, that "the depredations of the Spaniards, and their barbarity to our seamen, required only a clear representation, to raise the ancient British Spirit" against all enemies.⁹⁵ However, he claimed that the true source of British merchants' prolonged suffering was the "false brethren" among them.⁹⁶ The ministry had prevaricated

⁹³ Reprinted in *American Weekly Mercury*, 7 Sept. 1738.

⁹⁴ *Virginia Gazette*, 27 Oct. 1738.

⁹⁵ *Virginia Gazette*, 15 Dec. 1738.

⁹⁶ *Ibid.*

and delayed along with the Spanish to injure the British nation. The fate of British trade, which the author recognized as paramount to the success of the empire, was at stake. If fellow subjects could not support the West Indies trade, then the French, who were already rivaling Britain in many more branches of trade than they had decades before, would overshadow them completely.

Patriotism and Warmongering

In 1727 and 1738 Andrew Millar published a translation of a work by John Milton in support of military action in the West Indies under the government of Oliver Cromwell. The reprinting of the tract was intended to show the long history of Spanish piracy upon English trade in the Caribbean. The title was changed from Milton's to draw the connections between the two situations more plainly, specifically with the addition of the phrase "Depredations of the Spaniards."⁹⁷ The tract revealed the similarities of the conflict that occurred eighty years before, especially the reported cruelty that Spaniards continued to exhibit toward Englishmen in the Caribbean. The text indicated that Spaniards "without any just case, and without being provoked to it by any injury received...are continually murdering, and sometimes even in cold blood butchering any of our countrymen in America they think fit; while in the mean time they seize upon their goods and fortunes," and the Spanish saw fit to call the English pirates in these times, as if to justify their actions.⁹⁸ The reprinting was an attempt to revive an older outrage against Spain that had led the countries to an ill-conceived war, wherein the English underestimated Spanish strength on Hispaniola, in the previous century. The original text was similarly discussed England's past glory in its call for war against Spain.⁹⁹ The patriotic fervor intended by the reprinting was made clearer through the attached poem *Britannia* by James Thomson, which called for

⁹⁷ *A Manifesto of the Lord Protector of the Commonwealth of England, Scotland, Ireland, &c. Published by Consent and Advice of his Council. Wherein is shewn the Reasonableness of the Cause of this Republic against the Depredations of the Spaniards* (London, 1738); Milton's text was published in English and Latin, for English version see John Milton, *A Declaration of His Highness, by the Advice of His Council Setting Forth, on the behalf of this Commonwealth, the Justice of their Cause against Spain* (London, 1655).

⁹⁸ *Ibid.*, 4.

⁹⁹ See Maltby, *The Black Legend in England*, 118-121.

Britain to assert its dominance over Spain, which would give up its unjust captures “were once the British Lion heard to roar.”¹⁰⁰ Thomson’s poem had great popular appeal.

Several pamphlets in 1739 exalted Britain’s military glory and attempted to juxtapose its naval might with the perceived injustice it had endured at the hands of the Spanish. Two of these, or rather one artfully reprinted, sought to shame the *Daily Gazetteer* and “Mr. Freeman” for suggesting peaceful resolutions. The first pamphlet, *An Historical Account of the Many Signal Naval Achievements Obtained by the English over the Spaniards*, was as the title suggests an account great English maritime victories to show that Spain was consistently outmatched in naval warfare. The dedication, written “To the authors of the *Gazetteer*,” mocked “Mr. Freeman” and other unnamed contributors, sarcastically congratulating them for their support of the Spanish.¹⁰¹ The author continued to deride the positions taken in the paper:

I am very sensible that you, Mr. Freeman, and other Gentleman concerned in writing the GAZETTEER, are charged with shewing a tender regard to the Spaniards, and of using injurious epithets to the British merchants; but it must be evident to the discerning part of mankind, that such aspersions are groundless, it being absolutely inconsistent that you, gentlemen, who have thoroughly imbibed the pacific maxims lately establish’d to reject upon, or misuse your own countrymen; whilst you so charitably write in defence of the justice of the Spaniards, in the capture of our ships trading to the West-Indies. Can any one in his senses imagine that men of so much humility and benevolence to foreigners, could be so base as to make use of harsh expressions, and mere suggestions against the natives of their own country.¹⁰²

The opposition routinely attacked authors who suggested some of the British merchants trading to America may have been smugglers and justly seized. The pro-war sentiment generated against the ministry buttressed the notion that the entire nation was being dishonored, which first required writers to burnish the image of the honest and industrious British merchant, upon whose shoulders the weight of the empire of trade rested. A second edition of *An Historical Account of the Many Signal Naval*

¹⁰⁰ *A Manifesto of the Lord Protector*, 33.

¹⁰¹ *An Historical Account of the Many Signal Naval Achievements Obtained by the English over the Spaniards, from the Year 1350 to the Present Time* (London, 1739), i.

¹⁰² *Ibid.*, v-vi.

Atchievements further revealed the opposition's political posturing. The new edition added *Spanish Insolence Corrected by English Bravery* to the title, and it was now purportedly by a Captain Jenkins, clearly a reference to Robert Jenkins, though nothing else in the pamphlet had changed.¹⁰³ The authorship was intended to lend a credibility to the work as Jenkins was a famous symbol for the injustice done to Great Britain by the Spanish. The supposed authorship of "Captain Jenkins" continued in another similar pamphlet, *England's Triumph: or, Spanish Cowardice expos'd*. This pamphlet was purportedly written by Capt. Charles Jenkins, "who has too sensibly felt the effects of Spanish tyranny," which clearly attempted to identify the author (to readers) as the famed Captain Jenkins, despite the incorrect name.¹⁰⁴

The Convention of Pardo

The Convention of Pardo was meant to be a preliminary Anglo-Spanish accord to avoid conflict by settling outstanding disputes over territorial boundaries and trade. As mentioned earlier, it was negotiated by Sir Benjamin Keene and Sebastián de la Cuadra in Madrid in 1738 and signed in January 1739. The negotiators agreed that Spain would pay £95,000 within four months as reparation for unlawfully seized British vessels, and that the South Sea Company would pay £68,000 owed to the king of Spain as stipulated by the *asiento*. After these payments, the two countries would reconvene to settle remaining disputes, which would likely be "the boundaries of Georgia and Carolina, the British right to cut logwood in Campeachy Bay, [and] the British right to Free Navigation or exemption from search by Spanish *guarda costas*."¹⁰⁵ However, the preliminary treaty's terms would fail to resolve those disputes, especially since the British public decried the Convention as soon as it was announced.

¹⁰³ *Spanish Insolence Corrected by English Bravery; Being, an Historical Account of the Many Signal Naval Atchievements Obtained by the English over the Spaniards from the Year 1350 to the Present Time* (London, 1739). Jenkins was misspelled in the byline, but spelled correctly in the text, just as it appeared in the first edition.

¹⁰⁴ *England's Triumph: or, Spanish Cowardice expos'd. Being a Compleat History of the Many Signal Victories Gain'd by the Royal Navy and Merchants Ships of Great Britain, for the Term of Four Hundred Years Past, over the insulting and haughty Spaniards* (London, 1739).

¹⁰⁵ Temperley, "Causes of the War of Jenkins' Ear," 219.

Many pamphlets of 1739 focused on the Convention of Pardo and its negative reception by the public. The British public was upset that right of free navigation was not secured in the negotiations and that the original claims sent by the British government were reduced from £200,000 to £140,000, then once again to the agreed upon £95,000. The reduced payment seemed to be an admission that Spain had some right to stop ships and that some of the seizures were justified. There was a flurry of pamphlets concerning the Convention of Pardo. Opposition authors were outraged and they repeated calls for war. As ministry supporters saw Britain being pushed towards a war they thought should be avoided they responded by more openly condemning British smugglers. An anonymous pamphlet of 1739 contained one of the staunchest critiques of the opposition and a clear condemnation of British smuggling abroad. The pamphlet was a direct response to another written by George Lyttelton, a prominent writer for the opposition Whigs.¹⁰⁶ The author in support of the Convention was incredulous at Lyttelton's arguments, which claimed that Spain had no right to search British ships in American waters, though the anonymous author pointed to the British practice of searching ships off their own coasts in the pursuit of suspected smugglers. He further assaulted the notion that Britain must go to war to address depredations committed by Spaniards when Englishmen had been equally barbaric toward Spaniards in the West Indies. In addition to "numerous depredations on the Spanish," he asserted that "some of our colonies are known to have been hives of smugglers, or illicite traders; all men know it" and many even celebrated that fact.¹⁰⁷ He argued that English governors in the West Indies protected men engaged "in the most barbarous acts of piracy, that of taking ships and murdering their whole crew, to prevent their telling tales" and that those who had gone to trial in the colonies were "tried by their peers, meaning, that some of both judges and juries had been their fellow pyrates."¹⁰⁸ While this author was derisive of British subjects in the West Indies, he also pointed out that the "Northern

¹⁰⁶ George Lyttelton, *Considerations Upon the present State of our Affairs, At Home and Abroad* (London, 1739).

¹⁰⁷ *Popular Prejudices Against the Convention and Treaty with Spain, Examin'd and Answer'd* (London, 1739), 18.

¹⁰⁸ *Ibid.*

Colonies, trading to the French Islands, are supplied there with French Manufactures.”¹⁰⁹ The pamphlet was a severe condemnation of British colonists and governors as smugglers and pirates, something he argued the opposition knew and refused to admit publicly. The English people, he asserted, should know the truth of the matter, rather than being misinformed by the opposition, for “they will not go to war in support of smugglers and thieves, sworn enemies to the fair trader.”¹¹⁰

The incendiary pamphlet unsurprisingly elicited a strong answer from the much more prolific opposition. The author of an anonymous response, titled *Ministerial Prejudices In favour of the Convention, Examin'd and Answer'd*, contended that each act of British cruelty and barbarism listed by the author of *Popular Prejudices Against the Convention* was addressed by the British government, which had prosecuted the perpetrators, particularly in a case concerning a “Captain Jennings,” who had plundered a wrecked ship, fought Spaniards for recovered treasure and then captured more Spanish ships afterwards.¹¹¹ The author claimed that Spain had not done the same in condemning its subjects who were guilty of cruelty, barbarism, and piracy. The situation was not that simple, but polemic authors were determined to attribute the crimes of Spanish governors and subjects in America to Madrid. As for smuggling, the author of the responding pamphlet deflected criticisms of British merchants and downplayed smuggling. He implied that smuggling was not extensive enough to receive attention from British authors, who only spoke of legal trade. Interestingly, the anonymous author only mentions specifically the “great deal of brandy and tea smuggled upon the Coast of England,” while arguing that the empire reserves trade to itself despite “the illicit practices of private persons” who subverted laws enacted to ensure Britain’s commercial integrity.¹¹² Of smuggling into Spanish America

¹⁰⁹ *Popular Prejudices against the Convention*, 10.

¹¹⁰ *Ibid.*, 25.

¹¹¹ For original pamphlet’s account of “Captain Jennings of Jamaica,” see *Popular Prejudices*, 16-17; This was a reference to Henry Jennings, a privateer turned pirate, who raided the wreck of a Spanish treasure fleet in 1715. While it is true that Jennings was declared a pirate, he received a pardon in 1718.

¹¹² *Ministerial Prejudices In favour of the Convention, Examin'd and Answer'd* (London, 1739), 21.

he admits nothing directly, but only refers vaguely to the issue, stating that the author of *Popular Prejudices* “ought to know, that there is a great difference betwixt trading and smuggling” and the critics of the Walpole ministry and advocates of war with Spain argued only in reference to legal trade.¹¹³ Again, he implied that the smuggling trade is not significant. Rather, the opposition was primarily concerned with honest merchants who were unlawfully seized by *guardacostas*.

The direct critiques of smuggling seemed to be a recognition of the impending war. Ministry supporters began to insist that smuggling was rampant and of real concern to both Britain and Spain. These authors attempted to caution the country against an unjust war while the opposition briefly dismissed their claims, asserting British rights to free navigation and exemption from searches. Benjamin Robins, who had written several previous pamphlets criticizing the Walpole ministry, published an anonymous pamphlet criticizing the Convention that focused only on the illegal seizures of British vessels “taken in such circumstances as free’d them from all suspicion of even intending illicit trade.”¹¹⁴ He also defended the South Sea Company, though this position was attacked in a responding pamphlet.

The anonymous author of *The Spanish Merchant’s Address to all Candid and Impartial Englishmen* lambasted the opposition’s support for the South Sea Company, arguing that the so-called patriots had pointed to the Company’s smuggling trade years before and argued that the ministry-supported company was causing “very great injury to Spain,” and that “such clandestine practices” were against the *asiento* contract.¹¹⁵ According to this author, it was the opposition that first complained of smuggling, though later ignoring it to a large degree when it suited their interests. He suggested that the Spanish depredations were the opposition’s fault, arguing “as our patriots then appear to be the original authors of all the ravages committed by the Spaniards in America, by their turbulent clamours, which

¹¹³ *Ministerial Prejudices In Favor of the Convention*, 21-22.

¹¹⁴ *An Address to the Electors, And other Free Subjects of Great Britain; Occasion’d by the Late Secession* (London, 1739), 20.

¹¹⁵ *The Spanish Merchant’s Address To all Candid and Impartial Englishmen* (London, 1739), 20-21.

reach'd the court of Spain, about the smuggling and interloping trade."¹¹⁶ Smuggling had become a primary focus of discourse as war seemed inevitable. Authors who desired peace criticized British illegal trade to avoid potential war on smugglers' behalf. Those who called for war defended contraband trade or downplayed its scope.

The shift in rhetoric in 1739 was not limited to ministry supporters who sought to avoid a war. One anonymous author also railed against the South Sea Company as the cause of Spanish depredations. He accused the firm of going astray by conniving with the Spanish. The anonymous author suggested that the South Sea Company was vexed by British smuggling that diminished the economic potential of the company. Spanish American markets had limited amounts of specie, thus the profitability of the company relied on the exclusive trade granted to them by the *asiento*. The author argued that Company agents informed Spanish officials of British smuggling because it interfered with their legal and illegal commerce into Spain's colonies. The author, unlike his predecessors, celebrated the smuggling trade into Spanish America. The South Sea Company, in his view, had interrupted a profitable trade that was "undeniably advantageous" to Britain, while the Company's efforts in Spanish America were not only self-defeating, but disastrous to the nation.¹¹⁷ This was in part because, as Ernest Hildner put it, "the company...had a public function and the support of the crown, but little or no supervision or control; so it dragged the ministry into its quarrels in spite of itself."¹¹⁸ The *asiento* contract had not proved lucrative for the South Sea Company. There were numerous disruptions in trade because of open conflict between Britain and Spain, and the slave trade presented its own difficulties. The South Sea Company wanted to relinquish the contract. The anonymous author of *Considerations on the American Trade* argued that smuggling, or the "private trade" as he called it,

¹¹⁶ *Spanish Merchant's Address*, 20-21.

¹¹⁷ *Considerations on the American Trade, Before and Since the Establishment of the South-Sea Company* (London, 1739), 21.

¹¹⁸ Hildner, "The Rôle of the South Sea Company," 323.

provided support to thousands of British subjects across the empire with a number of additional advantages. The suppression of the trade, again at the behest of a profiteering South Sea Company, led to untold losses:

Let any one then consider what advantages, what an annual certain profit the nation must have lost for so many years past, by the obstruction our private trade has met with from the Company! How many thousands in Great-Britain have suffer'd thereby, and been depriv'd of an industrious and gainful subsistence! What a many of the inhabitants of Jamaica have been drove from thence, for want of employ; besides the number of sailors who had their dependance thereon, and are since forced to seek their bread amongst foreigners in other parts of the world!¹¹⁹

Far from condemning the idea of illicit trade with Spanish America, the author suggested that it was extremely profitable until the South Sea Company was granted legal access to Spanish America and informed against their fellow Englishmen to a foreign crown. Smuggling was countenanced if it did not harm Great Britain, even celebrated if it tipped the balance of trade in Britain's favor.

The pamphlet war continued beyond the declaration of actual war, though many war-time pamphlets simply reinforced ideas that had been laid down in the preceding years and offered responses to opposing views. Two of the most notable examples were published in late 1739, one purported to be the official views of the Spanish, printed '*Con licencia en Madrid*', and the other a response from Richard Copithorne, a captain of a merchant vessel who claimed to have been captured twice by Spaniards in America. The *Cotejo de la conducta de S. M. con la de el Rey Britannico*, was a review of the causes of war between the two countries, placing blame upon Britain for smuggling as well as their own barbaric treatment of Spaniards in America, similar to *Popular Prejudices*. Copithorne argued that there was not enough evidence to believe the accusations, mentioning the plundering of Spanish wrecks and an incident when a Spaniard had his nose and ears fed to him, but for Spanish depredations there was a plethora of credible information. In fact, he related his own treatment at the hands of Spaniards, claiming that at one point he and his crew were treated "as slaves, forced to cut

¹¹⁹ *Considerations on the American Trade*, 15-16.

wood ten days for the soldiers.”¹²⁰ This was, of course, one in a long list of abuses he catalogued. As for smuggling, the author reacted with the same incredulity as the patriot opposition had, claiming that British merchants were only trading between British possessions. He asked, “can this author call the carrying the produce of our own plantations, from one part of our island to the other, a clandestine trade?”¹²¹ Instead, Copithorne insisted that it was the Spanish who were guilty of a nefarious smuggling trade, through which they supplied maroons in Jamaica with weapons. He argued that “supplying these black rebels with arms, be an illicit trade, of the most destructive nature,” while further claiming that the Spanish continue to engage in “such pernicious practices.”¹²²

Opposition writers in 1739 also put a premium on removing Walpole from office. The public decried the Convention of Pardo, thanks largely to the storm of negative press about it, and Pulteney sought to capitalize on this outrage by placing the blame directly on the Prime Minister. He published a pamphlet, shortly after the Convention, which claimed that Walpole’s supporters had become silent and argued that “all the ill is owing” to “ONE MAN.”¹²³ Pulteney condemned Walpole for his pacific stance toward Spain, suggesting that the Spanish depredations were his fault. Pulteney’s rhetoric influenced many other pamphlets published anonymously, all of which condemned the Convention and ministry together. There were also familiar names contributing to the published outrage, namely Nicholas Amhurst under the penname Caleb D’Anvers, who clamored for violent retribution after the Convention, joining the supposed ranks of “Captain Jinkins.”¹²⁴ Despite the obvious political machinations of opposition writers, many Britons simply believed that Britain would benefit from a war with Spain and

¹²⁰ Richard Copithorne, *The English Cotejo: or, the Cruelties, Depredations, and Illicit Trade Charg’d upon the English in a Spanish Libel Lately Published* (London, 1739), 16. Copithorne’s story had also been printed in newspapers, see *London Evening Post*, 20 Feb. 1738.

¹²¹ *Ibid.*, 22.

¹²² *Ibid.*, 11.

¹²³ William Pulteney, *A Review of All that Hath Pass’d between the Courts of Great Britain and Spain, relating to our Trade and Navigation* (London, 1739), 2.

¹²⁴ Caleb D’Anvers, *An Authentick Account of the Important Transactions of the Last Assembly of the Political Club* (London, 1739).

Walpole's desire for peace only added to their fervor. Authors had driven public discourse on the Spanish depredations to a point that no convention or treaty, at least not one that would be agreeable to Spain as well, would have been acceptable to the British public. Those who wished for peace were labeled unpatriotic and were forced to defend their positions, which typically involved condemning their fellow subjects of being smugglers. The opposition succeeded not only in pushing the country closer to war, but it was able to diminish Walpole's standing and contribute to his fall from power. He eventually resigned from his high posts in 1742.

The War of Jenkins' Ear had many causes that had nothing to do with the feelings of the British public and the war likely could have been avoided, despite popular fervor, if it were not for the actions of the South Sea Company throughout the period when it held the *asiento* and after the Convention of Pardo. The Company's refusal to pay the Spanish king and its contraband practices drove a wedge between Britain and Spain. However, resolution would have been difficult as British merchants seemed determined to penetrate Spanish markets illegally while opposition authors denied their transgressions and ministry supporters were reluctant to criticize them. Eventually smugglers were even celebrated as an important part of the imperial economy. Pulteney's specific brand of patriotism dominated public discourse. As a result, the issue of British smuggling was obfuscated by misinformation to the point of stifling Walpole's supporters in print who regularly had to fend off criticisms about their loyalty to the empire. Ministry supporters more directly criticized British smugglers when war seemed imminent, but it was too late to change the course of the debate let alone to prevent or halt hostilities.

British perceptions of smuggling were dependent upon the context. Smuggling on the coasts of Britain was condemned by authors in London, though it was an essential part of the economy for many engaged in the trade. Smuggling into Spanish America was ignored or celebrated in some cases when some Britons saw it as beneficial to the empire. Ministry supporters understood that continued smuggling would plunge the country into war, which could be counterproductive no matter what the

warmongering opposition screamed. Britain's conflicted relationship with smuggling is even more clearly revealed by the severe legislation against domestic smuggling in the 1730s and 1740s. While opposition writers countenanced British smuggling into foreign territory, Parliament passed more drastic laws in 1736 and 1746 to stamp out smuggling gangs, which were a rising concern of the British public.

Indemnity and Escalation: The Smuggling Crisis, Indemnity Laws, and Political

Opposition

The 1730s and 1740s were pivotal decades for the history of British smuggling. Smuggling by British subjects in the Americas contributed to the outbreak of war with Spain, while smuggling at home led to the escalation of defensive measures. Two laws in particular, the Indemnity Acts of 1736 and 1746, created harsher penalties for smugglers and further restricted Britons' freedom to gather or travel armed.¹ These met with more criticism than previous laws against smuggling. Detractors argued that these laws infringed on natural British rights to bear arms, travel freely, and assemble with fellow Britons. Supporters felt that extreme measures were necessary to quell the surging violence of the smuggling gangs. This violence was apparent to the entire British reading public through the newspaper coverage discussed previously, but readers in the 1730s witnessed its dramatic rise.

The Mayfield Gang was still active and making headlines for their increasingly bold activities in Kent and Sussex. Large confrontations between smuggling gangs and law enforcement became relatively normal news items in the British Isles and North American colonies. In April 1732, two reports showed readers that the Mayfield Gang continued its operations, despite the earlier conviction and transportation of some of its leaders. A report in the *London Journal* related that the gang, numbering around twenty mounted men, held officers captive while the contrabandists smuggled their goods. When another officer tried to assist, the smugglers killed him. The Mayfield Gang, the author asserted, was "the most desperate gang of this kind that have been known: They are extremely well arm'd, and their heads or captains (as we hear) are Gilbert Tomkins, an outlaw, and one Toms, another outlaw."² Another report from April 30 noted that more dragoons had been sent to Dover to "prevent smuggling,

¹ Also referred to as the Smuggling Acts of 1736 and 1746.

² *London Journal*, 1 Apr. 1732.

which is grown to such an heighth that an officer dares not attempt to do his duty, nor even a body of them, the Mayfield Gang are so desperate.”³ These reports were not new in kind, but their increasing regularity prompted Parliament to act more aggressively than before. Parliamentary actions in response to the increasing threat represented an escalated defense against smuggling, a drive to increase the national revenue, and attempts to tighten the regulation of imperial trade. However, there was a strong opposition to many of the measures promoted by the government. The political opposition that criticized the ministry in regard to Spanish depredations similarly railed against excises and the new laws to eliminate smuggling gangs. A mixture of Whigs and Tories made up the opposition to Walpole, led by the former Tory minister to Queen Anne, Lord Bolingbroke. The opposition party, sometimes called the Patriot Whigs, served as a check to executive authority and viewed themselves as the defenders of traditional British liberty. Isaac Kramnick notes that Bolingbroke’s theory of opposition dictated that “individuals in power as well as ministries must be checked by an opposition ever eager to call notice to the misuse of power.”⁴ The opposition viewed almost all of Walpole’s actions as a misuse of power. His interest was not with the people, according to his detractors, so his true intentions were revealed in his policies. Opposition writers and politicians viewed smuggling and revenue laws, or provisions within them, as infringements on British liberty and troubling expansion of executive authority.

The Excise Crisis of 1733

In 1733 Sir Robert Walpole proposed to expand excise duties in Britain, which would reduce the land tax by enacting an excise on tobacco and wine to replace customs duties on those items. Walpole intended to pacify the landed interests of the country and prevent some of the frauds that smugglers had been using to avoid customs collections in British ports. He expected this to be a relatively uncontroversial proposal as he had done the same in 1724 for chocolate, coffee, and tea. However, the

³ *London Evening Post*, 29 Apr. 1732 – 2 May 1732.

⁴ Isaac Kramnick, *Bolingbroke and His Circle: The Politics of Nostalgia in the Age of Walpole* (Cambridge, M.A.: Harvard University Press, 1968), 160.

opposition politicians and authors who had coalesced into the Patriot Whigs roused the country against his proposals. The resistance he met in Parliament eventually led him to abandon his plan for the excise.⁵ Contemporaries and historians have suggested that the Excise Crisis contributed to the fall of his ministry a decade later.⁶

Smuggling was an omnipresent concern with matters of trade and taxes, as seen in the previous discussions of economic literature. The excise was no different and the print culture surrounding it further reveals that authors and politicians who supported the excise exploited the smuggling problem in political rhetoric to attribute ulterior motives, or even criminal intentions, to opposing political positions. Ministry supporters pointed to the smuggling crisis as an attempt to stifle criticism and they suggested that any argument against the excise was simply a clever misdirection so that wealthy merchant smugglers could continue their illegal trade. Additionally, the opposition was critical of excise and customs officers, suggesting that the expansion of state power that had come with increasing taxes and collection abilities constituted an infringement on British liberties and that it was often the officers themselves who connived with criminal elements of society to defraud the king, not the British merchant class. Furthermore, the opposition argued that taxes were simply too high, which encouraged the smuggling trade. Many contemporary authors who discussed the British economy made the same contention. The Excise Crisis was the first in a series of political issues where the government's attempts to end the smuggling problem in Britain were attacked as threats to the constitution and the rights of Englishmen.

While Walpole had already introduced excises without significant resistance, a Parliamentary committee detailed the need for new changes to the system of tax collection in 1733. Sir John Cope, an

⁵ For more on the Excise Crisis, see Paul Langford, *The Excise Crisis: Society and Politics in the Age of Walpole* (Oxford: Clarendon Press, 1975); Raymond Turner, "The Excise Scheme of 1733," *English Historical Review* 42, no. 165 (Jan. 1927): 34-57.

⁶ Clyde Jones, "The House of Lords and the Excise Crisis: The Storm and the Aftermath," *Parliamentary History* 33 (2014): 160-161.

army officer and Member of Parliament for Liskeard, led a committee to examine the smuggling problem and concomitant frauds that diminished customs revenue in Britain, particularly focusing on the tobacco trade in relation to petitions made by Virginian planters. These planters were primarily concerned with the difference in the weight of their product from the initial weighing in the colonies to its final weight in British ports. The Committee detected numerous frauds and reported on several aspects of the growing smuggling crisis. Paul Muskett notes that the Committee “stressed the ‘insolence’ of the parties of riders,” who travelled in large well-armed gangs on the coasts of Britain and sometimes in the capitol, effectively resisting most attempts to stop them.⁷ The smuggling problem had grown into a crisis for many observers in London. The Committee reported that at least 250 officers had been wounded in confrontations with smugglers over the previous nine years and six were murdered while on duty.⁸ In roughly the same time officers were able to seize almost one-million pounds of tobacco, 251,320 pounds of tea, and 652,924 gallons of brandy.⁹ The quantity of successfully smuggled goods was much greater and the loss to the revenue was staggering. The Committee also focused on the connivance of officers who were either bribed or coerced to act in conjunction with “unfair traders” or smuggling gangs. The Report related that these unfair traders profited so much from various frauds, such as drawbacks and providing false weights at port, that they were “enabled thereby to give such large gratuities to the officers who are their confederates...as several of the officers have not been able to resist, notwithstanding the hazard they run.”¹⁰ Opposition politicians seized upon this point in Parliament.

Sir John Barnard, MP for London and eventually its Lord Mayor, was a consistent voice in Parliament for the opposition to Walpole and frequently argued on behalf of small merchants. He

⁷ Paul Muskett, “English Smuggling in the Eighteenth Century,” 35.

⁸ *The Report, with the Appendix, from the Committee of the House of commons appointed to enquire into the Frauds and Abuses in the Customs to the Prejudice of Trade and Diminution of the Revenue* (London, 1733), 16.

⁹ *Ibid.*, 14-16.

¹⁰ *Ibid.*, 6.

argued against the proposed excise scheme, suggesting that the measures would not alleviate the problem, which was determined to be “a neglect of duty in the officers, and not to any defect in the laws.”¹¹ He further contended, in line with oppositional rhetoric on the smuggling problem, that smugglers were incentivized by high duties rather than the method of collection. Thus, he reasoned, “since the duties on tobacco are by this scheme to be as high, or very near as high, as they were before, we may expect there will be as much smuggling as there was formerly.”¹² Instead, he suggested that London may even be made a free port. Smugglers would persist where profit was to be made and the increase in officers, either for excises or customs, was seen as the expansion of the state’s power to enter the homes of Britain’s merchants. It was this view of the scheme that prompted Barnard to ask, “is not every man’s house looked on as his asylum? Is then the giving a power to any little paltry exciseman, to enter people’s houses at all times of the day and night, no encroachment upon the liberty of those people?”¹³ The smuggling crisis, according to the opposition, had become the government’s justification for expanding powers of search, seizure, and condemnation on the merchant community, which many Britons viewed as the lifeblood of the empire. Patriot Whigs, especially, believed that smuggling was being caused by government policy, an often-repeated claim, particularly after *The Mismanagements of the Customs* (1701). The opposition found it even more concerning that the ministry’s solution to bad government policy was to further erode British liberties.

Opposition politicians attacked the powers of excise and custom officers as the harbingers of tyranny, and they routinely denigrated officers. Remarks like Barnard’s “little paltry exciseman,” were relatively tame. Sir Thomas Aston, Member of Parliament for Liverpoole, stated that “it was his misfortune to know too much of the influence, that the Officers of the Customs and Excise had at

¹¹ "First Parliament of George II: Sixth session (part 4 of 5, from 16/3/1733)," in *The History and Proceedings of the House of Commons: Volume 7, 1727-1733*, (London: Chandler, 1742), 354-375. *British History Online*, accessed May 18, 2021, <http://www.british-history.ac.uk/commons-hist-proceedings/vol7/pp354-375>.

¹² *Ibid.*

¹³ *Ibid.*

elections," because they intimidated voters at his own election and worked against him.¹⁴ William Pulteney emphasized this point and argued that the scheme was simply an attempt to extend the reach of Crown officers. Customs officers were limited to the ports and coastal regions, but expanding the excise laws would extend the power of the Crown inland. Crown officers' influence at elections would create a Parliament more supportive of executive government and there would be no check to ministerial power. Pulteney argued that the scheme was using smuggling, or fraud in the customs, as a pretense to introduce "arbitrary power" to Britain.¹⁵ The opposition would continue to criticize ministerial efforts against smuggling that increased the power of executive government but did not lower taxes.

The discourse in public prints followed similar lines. Like the debates in Parliament, there was no doubt as to the significance of the smuggling problem, only in the suggested remedies. In an essay printed in the *Craftsman*, Bolingbroke's newspaper that was often the gold standard of oppositional rhetoric, an author admitted "that these complaints of frauds and smuggling are too just," but he disagreed as to "the cause, or cure of these evils."¹⁶ Ministerial supporters blamed the system of drawbacks that were offered on certain goods, particularly tobacco, for the smuggling crisis in Britain. Merchants in London, Bristol, and other ports would legally reexport tobacco, reclaim the custom duty as a drawback, then smuggle the tobacco back into the country to sell at a lower price. The tax on home consumption provided by the excise intended to end the system of fraudulent drawbacks, though the opposition continued to argue that it was a simple case of taxes being too high already.

¹⁴ "First Parliament of George II: Sixth session (part 4 of 5, from 16/3/1733)," in *The History and Proceedings of the House of Commons: Volume 7, 1727-1733*, (London: Chandler, 1742), 354-375. *British History Online*, accessed May 18, 2021, <http://www.british-history.ac.uk/commons-hist-proceedings/vol7/pp354-375>.

¹⁵ *Ibid.*

¹⁶ Caleb D'Anvers, *The Craftsman*, vol. 10 (London, 1737), 47. This source comes from a compiled volume of *Craftsman* issues. For original issue, see *Craftsman*, 2 Dec. 1732.

Opposition authors and politicians who discussed the excise scheme were extremely critical of the officers who collected those taxes. These writers similarly turned their critical pens to attack the expansion of authority for customs officers. The author of the *Craftsman* article cited above pointed to this perceived problem, arguing that any Briton who looked “into the penal laws, relating to the Customs, will find as severe penalties annex’d to them as were ever known amongst a free people.”¹⁷ As evidence he referenced the high fines and imprisonment to which merchants and shipmasters were subjected, but more importantly pointed out the powers of search and seizure that were stipulated by the general warrants known as writs of assistance. Worse still, he emphasized that all Britons were required by writs of assistance to join officers in breaking into suspected buildings and containers. He further reasoned that despite these great powers, the revenue continued to be deficient. Thus, the deficiency from customs proceeded “from the corruption, or negligence of the persons employ’d,” rather than the leniency of penal laws relating to smuggling.¹⁸

Authors demonized excise officers throughout this episode, though they were a source of agitation before and after the crisis. The author of the *Craftsman* essay complained that excises and the officers who collected them did not and were not able to prevent smuggling, as they were not stationed on the coasts where smuggling occurred. Rather, he contended, “their province lies more in tormenting the fair trader; in disquieting him in the possession of his property, and in the peaceable pursuit of his lawful calling.”¹⁹ The opposition painted excise officers as cruel and conniving and deplored the expansion of state authority in the hands of morally questionable men. The excise scheme would mean more excise officers, which the opposition argued would “greatly endanger the liberties of the nation.”²⁰ The liberties, only vaguely referenced in that essay, were spelled out more fully in a subsequent issue of

¹⁷ D’Anvers, *Craftsman*, vol. 10, 47.

¹⁸ *Ibid.*, 48.

¹⁹ *Ibid.*

²⁰ *Ibid.*

the *Craftsman*. Under excises, the author assured readers, Britons would be “deprived of that great and fundamental privilege of Magna Charta, a trial by jury, and subjected to the arbitrary determination of court-officers, who are not only prosecutors, evidence and judges in their own cause,” but also Crown appointed and could be misused by “a corrupt minister.”²¹ Clearly the opposition thought that a corrupt minister was already at the helm.

More importantly, the author in the *Craftsman* argued that excises in most of Europe were signs of eroding rights and absolute rule. He stated that he had reviewed the history of excises and found “that they have constantly been the forerunners of arbitrary power, and were never suffer’d in any free country, till convulsions in government, and pressing exigences of the state have made them necessary.”²² Thus, in the eyes of the opposition, the ministry used the smuggling problem as a pretense for the expansion of state power and the creation of perpetual taxes on the British people. The threat of smugglers, they reasoned, became cause for the suspension of trial by jury. British colonists would take up this argument decades later when smuggling led to new revenue laws and the use of writs of assistance.

Opposition writers argued that the smuggling crisis, though very real, should not be used as a pretense for stripping rights from Englishmen. Ministry supporters emphasized the lawlessness that pervaded British coasts to prove that the excise was necessary. The *Daily Courant*, which was a notable ministerial paper before it was replaced by the *Daily Gazetteer* in 1735, featured numerous essays concerning the excise in 1732 and 1733 that rebutted opposition arguments. One author in the *Courant* argued “that the Officers of the Customs have not strength enough” to oppose smugglers and those that had been foolish enough to try for several years had “been murdered in the most barbarous manner; their carcasses have been mangled as inhumanly as if they had been tore to pieces by dogs.”²³ All of this,

²¹ D’Anvers, *Craftsman*, vol. 10, 64. For original, see *Craftsman*, 16 Dec. 1732.

²² *Ibid.*, 65.

²³ *Daily Courant*, 16 Dec. 1732.

he related, was a warning by smuggling gangs for any other officers who tried to perform their duties. Such violence against crown officers required a strong response from the government.

The author argued in the same essay that popular acceptance of smuggling in coastal regions added to the difficulty of customs collections and diminished royal revenue. He stated that “every body knows, that all along the sea coasts of England,” wine, brandy, and many other smuggled goods were sold openly.²⁴ Worse still, he added, merchants were proud of their ability to confound officials and would “applaud themselves for their cunning and contrivance.”²⁵ He pointed to Wales specifically as a region that was rife with smugglers who were known to keep small boats just to venture to ships hovering off shore to run goods back to land. Inland duties would, the author assured, prevent the residents of Wales, Kent, Sussex, and other known smuggling havens from diminishing the revenue.

The author’s essay continued following week and he took aim at *Craftsman*’s claims that the right to trial by jury and the nation’s very liberty were at stake in regard to the pending excise bill.²⁶ The opposition argued that powers held by Commissioners of the Excise were chipping away at liberties guaranteed to the English people. However, the author of essays in the *Daily Courant* pointed out that Justices of the Peace already could condemn goods for which no tax had been paid in the same manner that would be true for the excise, but that “no man can be condemned without a trial by jury.”²⁷ Essayists writing for the *Craftsman* further expounded on complaints concerning excises throughout 1732 and into the following year, suggesting in some essays that the excise scheme would lead to a standing army to support the measure and officers would be quartered by the merchant community.²⁸ Authors also emphasized the distaste English people had for excises and excisemen. An author signed as

²⁴ *Daily Courant*, 16 Dec. 1732.

²⁵ *Ibid.*

²⁶ *Daily Courant*, 23 Dec. 1732.

²⁷ *Ibid.*

²⁸ See Caleb D’Anvers, *An Argument Against Excises, In several Essays, lately published in the Craftsman, and now collected together* (London, 1733).

J. English writing to the *Daily Courant* quoted an essay in the *Craftsman* which stated that a general excise would be “levied by arbitrary and insolent excisemen, supported by a standing army.”²⁹ In fact, the title page of the pamphlet *An Argument Against Excises* featured a selection of “The Last Instructions to a Painter,” by Andrew Marvell:

Excise, a Monster worse than e'er before
Frighted the Midwife, and the Mother tore;
A thousand Hands she hath, a thousand Eyes,
Breaks into Shops and into Cellars pries;³⁰

Marvell's concern in the seventeenth century was the same as the opposition's in the eighteenth. The problem of untaxed goods was, in their estimation, being used as justification for search powers without proper limits. This authority was given to men who could be corrupt. In the hands of a tyrant, the powers that followed a general excise were inconsistent with English liberties. According to opposition rhetoric, smuggling was not a great enough threat to Britain to justify such extreme measures. Their concern over executive power and British liberties had become a feature of resistance in the critical discourse on smuggling.

Excise scheme supporters once again portrayed their opponents as smugglers or those who benefited from clandestine trade. There was an advertisement in the *Daily Journal* for a meeting of persons who supported the expansion of excise laws. The advertisement also stated that there were “several meetings of traders who call themselves merchants, but who by their clamours against excise can only be smugglers and unfair traders.”³¹ Each argument in favor of the excises indicated that smugglers would endure the burden of the new laws, whereas fair traders and purchasers had been the only sufferers up to that point. James Pitt, who wrote pro ministerial essays under the penname F. Osborne in the *London Journal*, suggested that the honest tobacco and wine merchants of London

²⁹ *Daily Courant*, 31 Jan. 1733.

³⁰ D'Anvers, *An Argument Against Excises*.

³¹ *Daily Journal*, 18 Jan. 1733.

would benefit from the proposed law because they would “supply those places on the coast, and inland towns too, which the smugglers now supply.”³² Another author, signed R. F. (likely Raphael Courteville) in the *Daily Courant*, argued that tobacco planters, who were among several groups petitioning Parliament for redress, would finally “be delivered from those oppressions under which they had so long groaned; and that those advantages would be purchased at the expence only of smugglers, and other unfair dealers, who swelled their coffers at the cost of the honest trader,” and all of Britain.³³ The measure’s supporters assured readers that there was no real threat to British liberties posed by the ministry proposals. Rather, these were desperate arguments by an opposition party that would do anything to remove Walpole from power, or by those who directly gained from illicit trade.

The Excise Crisis was one of a series of instances in the 1730s that revealed the controversy smuggling created in the political arena. It was accepted as a crisis in Britain, but opposition writers feared expanded governmental powers or increased taxes. Supporters of the new measures claimed that those arguments were disingenuous. It is clear, however, that the development of a strong political opposition to Walpole’s ministry created more opposition to measures meant to address the smuggling crisis. A new law in 1736, influenced in part by the Parliamentary report in 1733, would create more severe penalties for smugglers and take drastic steps to prevent some of the violence that was occurring on the coasts of Britain.

Indemnity Act of 1736

The proposed expansion of excise laws in 1733 met with strong opposition that focused, in part, on the power of government officials to search for smuggled goods throughout Britain. Many writers and politicians portrayed excisemen as corrupt state actors who were imbued with powers that were incompatible with a free society and which infringed on fundamental liberties that were intrinsic to the

³² *London Journal*, 31 Mar. 1733.

³³ *Daily Courant*, 7 Jul. 1733; R.F. likely short for Ralph Freeman, the pseudonym of Raphael Courteville.

English constitution. The controversy, in many ways, marked a change from the previous decades when agents of the state were frequently portrayed as heroes against hordes of brutally violent smuggling gangs. The Indemnity Act of 1736 was a drastic step in fight against smuggling and it elicited severe condemnation from some and it inspired (along with four other Acts of Parliament), an act of terrorism.

The 1724 excises on tea, chocolate, and coffee, as it turned out, were not very popular among merchants. On March 10, 1736, a group of tea merchants petitioned the House of Commons for redress from the 4 shillings per pound excise that had been laid on tea regardless of quality. Instead, they asked for an *ad valorem* tax based on East India Company sales, as they felt that the flat tax on all imported tea was levied inequitably and aggravated by “the very high duty,” was “the principal foundation of the pernicious practice of smuggling.”³⁴ These merchants believed the *ad valorem* tax, or tax relative to the value of the imported good, would lessen the temptation of smuggling and allow fair dealers to compete. However, the House of Commons brought forward a bill that did not address these concerns directly, but focused solely on the smuggling problem.

The bill proposed to indemnify individuals guilty of smuggling against excise and customs laws and called for stricter enforcement of the laws in place. As Muskett notes, the resulting Act developed from the 1733 report which related the lawless and violent nature of gangs that carried smuggled goods from the coast.³⁵ Parliament believed that smuggling gangs were responsible for more than violence against officers, but for the seduction of poor Britons into illegal trade. The preamble for the Indemnity Act stated that “divers wicked and evil disposed persons have of late not only carried on...such pernicious and illegal practices,” but Parliament was now equally concerned with the fact smugglers had “seduced great numbers of other persons to join with them...whereby the evil is become so general,” that extraordinary action was necessary.³⁶ The logic behind the law was that there were many

³⁴ *Journals of the House of Commons*, vol. 22 (London, 1803), 624.

³⁵ Muskett, “English Smuggling,” 35.

³⁶ 9 Geo II c.35.

redeemable Britons lured into smuggling. Thus, the law offered indemnity to anyone who had broken customs or excise laws, including persons who had run goods, committed frauds, and those who had assaulted or bribed officers. Guilty parties could plead this Act and they would be “acquitted, indemnified, released, and discharged,” and no longer subject to any of the government’s penalties related to their crimes, though financial penalties owed to informers were not cleared.³⁷ Smuggling crimes were made felonies, liable to transportation to the colonies for seven years. Repeat offenders who had already taken advantage of indemnity, or who returned to Britain before their transportation sentence was complete, would be executed.³⁸ Additionally, the previous statutes limiting the gathering of armed men were strengthened.³⁹ The Indemnity Act stated that three or more people who were found assembled “armed with fire-arms or other offensive arms or weapons” could be committed to jail without bail by a Justice of the Peace, citing the “divers dissolute and disorderly persons [who] frequently appear in great gangs near the sea coasts” that had terrorized towns and prevented crown officers from carrying out their orders.⁴⁰ The Act required a single oath from an informer for suspected smugglers to be committed to jail and offered £50 for such information. Unlike previous Parliamentary Acts, the Indemnity Act did not limit this restriction to armed men found within twenty miles of the coast. The Act also further developed the themes of official connivance with smugglers that the committee emphasized in the 1733 Report by adding a £50 fine for offering bribes to officers.

In addition to the restrictions on armed men assembling near the coast, Parliament also strengthened penalties for smugglers caught with contraband goods. The law made carrying smuggled goods in groups of two or more on horseback or by cart a felony punishable by seven years transportation to the colonies. Further, it determined that anyone found to be “lurking, waiting or

³⁷ 9 Geo II c.35.

³⁸ *Ibid.*

³⁹ See 6 Geo I c.21 and 8 Geo II c.18.

⁴⁰ 9 Geo II c.35.

loitering within five miles from the sea coast, or navigable river,” could be committed by a Justice of the Peace to “the House of Correction, there to be whipt and kept to hard labour” for up to a month if they were suspected to be involved in the smuggling trade and could not give an adequate reasoning for being there.⁴¹ This was, again, to be based on the discretion of officers and JPs without any overt act, which detractors argued disregarded British liberties. These sections focused on the proclivity of smuggling gangs to run their goods to shore and then split into numerous small groups to carry contraband inland.

Parliament attempted to diminish community support, break gang affiliations, and embolden officers through financial incentives in the Indemnity Act. Individuals could earn a £50 reward for informing against smugglers and their accomplices after the guilty party was convicted. This reward was available to former smugglers themselves, adding pressure to take advantage of indemnity and betray fellow gang members. Officers and private subjects who were wounded in the pursuit and apprehension of smugglers were entitled to a £50 reward upon the conviction of the individual. The law also contained a series of financial deterrents to end common smuggling practices, such as the £50 fine for attempted bribery. Similarly, individuals who obstructed Crown officers in their duty received a £100 fine. Parliament attempted to strike at the known haunts of smugglers by stipulating a £100 penalty to the owner of any house selling alcohol that was found to be harboring smugglers.

The Indemnity Act also placed greater restrictions on vessels off the coasts of Britain. Ships found to be hovering within two leagues of British coasts carrying tea or foreign spirits, in amounts greater than two gallons per sailor, were subject to search and forfeiture of goods. The Act further decreed that ships up to 100 tons would be forfeited if found hovering within four leagues of British coasts with untaxed foreign goods. Parliament aimed at shipowners who funded smuggling ventures with these provisions.

⁴¹ 9 Geo II c.35.

When debate opened on the bill in the Commons, opposition members expressed incredulity that the bill was the result of petitions to lower the excise duty. Several members stated “that it was very extraordinary to see such a petition followed by such a bill,” which did not address the original complaint of high taxes and placed merchants under additional regulations that were “inconsistent with the liberties of the people.”⁴² Sir Robert Walpole and supporters assured the Commons that the bill’s provisions would only negatively affect smugglers, not any of Britain’s fair traders. Interestingly, the debate in the House of Commons did not focus on the sections of the bill that caused outrage in print or in the House of Lords. Rather, opposition MPs in the Commons were concerned with the section that stipulated that ships up to 100 tons would be forfeit if they took on uncustomed goods from ships hovering offshore. Opponents of the measure argued that it unduly punished ship owners who could not be held at such a high liability for the actions of a captain or common sailor. Nonetheless, the bill passed to the Lords without much further debate.

Several Lords offered a much stronger resistance to the bill of indemnity. Lord Harwicke, who was actually a supporter of Walpole and served as his Lord Chancellor, offered the dissenting views of several Lords. They took issue with several sections of the proposed bill that they felt were incompatible with British liberties. Their primary concerns were with the sections that prevented men from travelling or congregating when armed. They maintained that it was a “fundamental maxim of the laws” of England that every person had a presumption of innocence until a crime was proved against them “by some Overt Act of his own.”⁴³ It was a further guard of British liberty that any person could arm themselves, train with those weapons, and travel freely with them. It was, the dissenting lords assured, “highly commendable” for British subjects to travel armed, and that allowing a witness to prove the

⁴² “The second Parliament of George II: Second session (4 of 4, begins 12/4/1736),” in *The History and Proceedings of the House of Commons: Volume 9, 1734-1737*, (London: Chandler, 1742), 193-238. *British History Online*, accessed May 19, 2021, <http://www.british-history.ac.uk/commons-hist-proceedings/vol9/pp193-238>.

⁴³ *London Magazine: or, Gentleman’s Monthly Intelligencer*, 2 Dec. 1736, 717.

intention of any three men travelling armed “without any overt act from whence that intention can possibly be inferred...is inconsistent with the freedom of our constitution, and with the whole tenor of the laws of this kingdom.”⁴⁴ They further complained that the witnesses were then rewarded for their testimony and that it was as likely for real smugglers to inform on innocent men travelling armed as it was for smugglers to be caught that way. The government’s efforts to stop smuggling, in their view, crossed a sacred line with this bill. Lord Harwicke stated that he was always in favor of effective methods to prevent the “pernicious practice called smuggling,” but that it was unacceptable to do so at the expense of fundamental liberties and the constitution, “for slavery would be a price too dear even for the most absolute security against smuggling.”⁴⁵ He extended this point to show that even countries that employed arbitrary power against their subjects could not stop smugglers, pointing out that France struggled with similar levels of smuggling, though their smugglers seemed to be “much more desperate than ours; for they march in little armies, are well armed and disciplined, and often engage in battle with the Custom-house Officers,” and with guards hired for that purpose.⁴⁶

The dissenting Lords further took umbrage at the powers granted to Justices of the Peace to imprison a person based on intention rather than an overt act, suggesting that it was effectively a suspension of *habeas corpus*. They argued that subjects were in danger of being committed to jail without bail under mere suspicion of intent to commit a crime. Even more concerning was the idea that a Justice of the Peace could be dishonest in the application of such a law. JPs could render subjects helpless under the new provisions, and these officials were “removable at the pleasure of a minister, and may most of them be made the drudging tools of an Administration,” so they argued that these powers were “inconsistent with the principles of the Revolution.”⁴⁷ Opposition politicians and authors

⁴⁴ *London Magazine: or, Gentleman’s Monthly Intelligencer*, 2 Dec. 1736, 718.

⁴⁵ *Ibid.*, 717.

⁴⁶ *Ibid.*, 722.

⁴⁷ *Ibid.*, 719.

emphasized the point that authority was being centralized under ministry appointed officials. The various sections that restricted British liberty to be armed with offensive weapons led dissenting Lords to suggest that honest and innocent subjects would not arm themselves out of fear of the penalties of this statutes, so detractors viewed the proposed law “as a Bill for disarming the whole Kingdom.”⁴⁸ Worse still, they expressed concern about another section that would move trials away from the county where the alleged crimes were committed. The British right to a trial by jury of peers, presumably drawn from a defendant’s community, was threatened.

The dissenting Lords also suggested that customs officers could be conniving and use the new regulations to their advantage. They stated that “when an officer is assaulted, or pretends to have been assaulted by a country gentleman or farmer,” there should not be cause for an officer to bring the case to trial anywhere in England while the farmer and gentleman would have to bring a case of assault by an officer to trial in the same county.⁴⁹ Removing a trial to distant locations meant local witnesses could not testify about the character of defendants, putting them at a disadvantage. Overall, the dissenting Lords thought the law diminished the rights of the subjects, increased central authority through Justices of the Peace and crown officers, and set a dangerous precedent in the fight against smuggling. Further, the dissenting Lords expressed fear, through Harwicke’s speech, that the Indemnity Act would not stop smugglers, instead it would make them more bold:

I am afraid, that instead of preventing Smuggling, it [the bill] will render desperate all those who shall hereafter embark in that pernicious Trade, which will make them more bold and enterprising than they ever were heretofore; and their common Danger will unite them closer together, which will make them more powerful and formidable. While our numerous high Duties continue, while there are such Profits to be got by Smuggling, it is in vain to expect we can entirely prevent it by the most severe Laws we can make. By such Laws we may ruin our Constitution, we may subject ourselves to arbitrary Power...⁵⁰

⁴⁸ *London Magazine: or, Gentleman’s Monthly Intelligencer*, 2 Dec. 1736, 719.

⁴⁹ *Ibid.*, 721.

⁵⁰ *Ibid.*, 722.

This speech was a passionate defense of British liberties in the face of perceived government encroachments. The dissenting Lords reasoned that the only way to suppress smuggling was to lower taxes as the original petitioners requested. They emphasized this point further in the debates, arguing that “many of the taxes we have established, are so very high, in proportion” to the price of the principal good that it would require granting “arbitrary powers to our government” to effectively collect them.⁵¹ It would be better, they continued, to lower taxes and establish new revenue streams, rather than “transporting and hanging our people, who are made criminals by the temptations we have thrown their way.”⁵² It was this criminalization of commerce that politicians focused on when criticizing government policy on smuggling. Detractors accepted that trade was the bedrock of the empire, but failed regulations had created the extensive criminal networks that smuggled goods into Britain. The dissenting Lords’ belief that imprudent government policy created smugglers of otherwise honest Britons was an important development in the perception of smugglers. Contemporary commentators routinely noted lower class proclivity to vice and crime. However, this was often conveyed as something innate in criminals. Writers had portrayed smugglers as base villains throughout the century, but some began to publicly comment on illegal trade’s seduction and temptation of poor British subjects. The discourse concerning unwise government policy and its effects on British subjects shows that radical Whig ideology informed the debate on smuggling in the 1730s. Concerns about the strength of executive authority and the erosion of British liberties were pervasive.

Supporters of the bill dismissed the dissenters’ arguments, claiming that any power of government could be misconstrued into something anathema to British liberties or the constitution by artful reasoning. Supporters offered two notable counterarguments on the issue of carrying weapons and removing trials from the county where an alleged crime was committed. First, supporters of the bill

⁵¹ *London Magazine: or, Gentleman’s Monthly Intelligencer*, 2 Dec. 1736, 728.

⁵² *Ibid.*

defended the severity of the measures because of the severity of the smuggling problem. They argued that the violence committed on the coast by smuggling gangs was as grievous an offense as any other and the punishments were probably inadequate if anything. Second, a supporter suggested that transportation “would be a very moderate punishment,” for smuggling goods without weapons or the intent to use deadly force, “but when men provide arms for this purpose, it shews they design to murder as well as smuggle; nay, I must really look upon it as a sort of treason.”⁵³ The smuggling gangs’ large numbers, the supporter further reasoned, confirm that these men had consulted beforehand, which in itself was the overt act which the dissenters said could not be proved. All stipulated punishments, supporters assured, were reasonable in relation to the violence that pervaded British coasts. When viewed as the violent actions of an armed group of traitors, supporting Parliamentarians felt that the full weight of government authority must be wielded against the smugglers.

The bill’s supporters further argued that trials had to be moved in many cases to ensure justice. Further, the difference between officers and subjects had to be established regarding the place of trials because of the difficulties officers had met with in the execution of their duty, especially in certain counties where smuggling was most prevalent. Supporting MPs contended that in many “maritime counties, the whole people of the County are so generally engaged in it, that it is impossible to find a jury that will upon a trial do justice to an Officer of the Revenue in any case whatsoever.”⁵⁴ Despite some evidence of juries convicting smugglers in regions where illegal trade was prevalent, it was the established thought in London that sympathetic juries would not convict smugglers and would find against officers. Of course, latter was probably truer, as crown officers, specifically officers of the excise, were viewed negatively and received a similarly negative portrayal in the press. Authors who engaged in the counter-narrative on smuggling regularly contended that there was a large-scale acceptance of

⁵³ *London Magazine: or, Gentleman’s Monthly Intelligencer*, 2 Dec. 1736, 725.

⁵⁴ *Ibid.*, 726.

smuggling and that many engaged in the practice. That belief clearly was strong in Parliament as well. The extent of popular support is difficult to ascertain, but the perception of it influenced strict legislation. Moreover, that perception shaped provisions that financially incentivized British subjects to inform against smugglers operating in their communities.

The bill eventually passed into law without any alterations. The House of Commons argued that it was their privilege to pass laws to increase the revenue and, by extension, to enact measures that would ensure the effective collection of dues. The *Daily Gazetteer* featured several essays that supported the Act and rebutted dissent against it. William Pryn, a ministry supporter and frequent contributor to the *Gazetteer*, complained about the Patriot Whigs and their hypocrisy concerning the Indemnity Act and other controversial legislation. He lamented the fact that opposition politicians were so focused on the removal of Walpole that they would oppose whatever measures he supported regardless of the benefits they offered to the country, or even to members of the opposition. He specifically mentioned the Gin Act and the Indemnity Act passed that session and criticized the opposition's dissent. Pryn noted that some members of the opposition had portrayed the section of the Indemnity Act wherein a Justice of the Peace could commit a person to jail if he were found congregating in a group of three or more armed with offensive weapons "as an extraordinary precedent, unknown to our laws," but he contended that "they should consider at the same time, the nature of the grievance, which could not be remedied in the ordinary way."⁵⁵ Idiomatically put, drastic times called for drastic measures, and the smuggling problem had grown into a crisis. Pryn further asserted that Justices of the Peace already had significant discretion in jailing a person who was suspected of a felony, and this was not a wholly new power. In a later essay, an author in the *Gazetteer* noted that Justices of

⁵⁵ *Daily Gazetteer*, 2 Jun. 1736.

the Peace maintained similar powers contained in the Indemnity Act by virtue of the vagrancy laws in the kingdom, which allowed JPs to jail persons under suspicion of being a vagrant.⁵⁶

Above all, Indemnity Act supporters argued that any of the extreme measures enacted were necessary to combat smuggling. They contended that the severity of the law did not even match the grievousness of the crime. One anonymous author argued that the nature of smuggling made the Indemnity Act necessary. Not only was illegal trade a crime against all subjects that was often carried out with extreme violence, but the author indicated that the problem was worsening:

The persons that carried on this illicit trade were become both dangerous and formidable, and acted in the most open Defiance of the Laws; their Strength and Numbers were so considerable, that they were able to protect themselves in their illegal Practices, against the Power of the civil Magistrate, and many Persons have lost their Lives in attempting to put the Laws in Execution against them; all the idle, the dissolute, the loose and desperate Fellows about the Countries, whose Extravagancies and Vices had made them obnoxious to the Laws of their Country join'd them, by which Means several large Bodies of Outlaws, and Men guilty of all manner of Crimes and Villanies, were kept up within the Kingdom, capable of any Mischief, and ready for any desperate Enterprize.⁵⁷

Smugglers had grown in strength and villainy. The smugglers were creating an entire criminal class on the coasts. Commentators began to refer to smugglers as outlaws. Any of the measures taken, by this line of reasoning, were a necessary evil to gain an advantage in the government's fight against illegal trade. Smuggling, he continued, would not stop unless these drastic measures were taken. Contraband continued through "embargoes or quarentines, or even a war itself," as other trade was slowed or stopped.⁵⁸ The author called smuggling "an intestine constitutional evil, which consumes and wastes away the trade of a nation by degrees," and it would require a "remedy...equal to the malignity of the disease."⁵⁹ The author's comments reveal the impact of print culture on the British reading public. The critical discourse on smuggling emphasized the most serious transgressions of smugglers, such as their

⁵⁶ *Daily Gazetteer*, 4 Aug. 1736.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

operations during the plague and during wars, and these were used to strengthen support for the Indemnity Act.

Dissent from the traditional sources of opposition was relatively muted compared to the response to the Excise Crisis or the Spanish Depredations. Much of the opposition was more focused on the Gin Act passed the same session, which taxed the liquor and required licenses for its dealers. Both laws, however, were the subject of a violent protest. A report carried in the *Daily Journal* stated that a man, later identified as Robert Nixon, went to Westminster Hall with a large roll of papers “wherein was a quantity of gunpowder, thought to be about half a pound, and found means to set fire to it on the steps leading to the Court of Chancery, whilst the Courts were sitting.”⁶⁰ Nixon placed the makeshift bomb under benches where barristers were sitting and lit the fuse before escaping. An officer in the hall noticed the smoke and was able to throw it away from the benches before it exploded, causing a significant disturbance in Westminster, though no one was injured from the blast. The papers wrapped around the powder were printed with a message which criticized five laws that the group responsible viewed “as destructive of the product, trade, and manufactures of this Kingdom, and the Plantations thereunto belonging, and tending to the utter subversion of the liberties and properties therof.”⁶¹

Robert Nixon was a Nonjuror “who headed a small band of ardent Jacobites,” including innkeeper Samuel Killingbeck and printer Doctor Gaylard, who all assisted in the explosive protest.⁶² Historian Paul Monod argues that “social bandits,” including smugglers, “and adherents of the Stuarts shared a desire for the restoration of lost rights and the revival of true justice.”⁶³ Monod cautions against reading too much into the association between criminal groups and Jacobites, but the shared concern over “lost rights,” or traditional liberties was an important aspect of public perceptions of

⁶⁰ *Daily Journal*, 15 Jul. 1736.

⁶¹ *The Political State of Great-Britain*, vol 52 (London, 1736), 113.

⁶² Paul Monod, *Jacobitism and the English People, 1688-1788* (Cambridge: Cambridge University Press, 1989), 119.

⁶³ *Ibid.*

smuggling. After all, the radical Whigs were similarly uneasy about the Indemnity Act because of the perceived attack on personal liberty. The Jacobite protestors included the Indemnity Act, also called the Smugglers Act, in the five laws that were all described as libels and given mocking names. The name given to the Indemnity Act was variously reported as “The Act to prevent innocent gentlemens travelling armed,” and “An Act to seize all innocent gentlemen travelling with arms for their own defence.”⁶⁴ This was the same concern expressed in the House of Lords and by opposition writers.

William Prynne quoted the *Craftsman’s* similar view of the law, which read “Noblemen and Gentlemen, who travel near the sea coast with two or three servants armed, are liable to be taken up as smugglers.”⁶⁵ Prynne countered that this law did not create new powers, but rather extended powers granted to Justices of the Peace in other cases of suspected felonies, much like supporters in Parliament had suggested. Prynne assured readers that the Riot Act granted similar powers and he challenged detractors to provide examples of unjust use of that Act, and further argued that the expansion of these powers was necessary because the “practice of smuggling, is as great an evil as any other kind of felony relative to civil property.”⁶⁶ Nonetheless, the fight against smuggling had brought questions of the limits of governmental authority to the fore.

Interestingly, the Indemnity Act protests focused on the ways gentlemen and the well-to-do could have been affected by the law. Detractors suggested that a servant could hide smuggled goods in a gentleman’s carriage as he travelled across the coast then inform against him. Opposition authors attempted to show the reading public that they were in danger of having basic liberties taken away from them, though supporters of the law assured that it was not meant for honest Britons, but for smugglers who were the lower sort of people. This conception of smugglers was made clear by the *Daily Gazetteer*

⁶⁴ *Grub Street Journal*, 22 Jul. 1736; *Political State of Great-Britain*, 114; Nixon and his compatriots were eventually caught and Nixon was sentenced to five years in prison and a fine.

⁶⁵ *Daily Gazetteer*, 22 Sept. 1736.

⁶⁶ *Ibid.*

article quoted above and the perception of illegal traders as being members of violent gangs was becoming more prevalent in the 1730s.⁶⁷ In his chapter on Sussex smuggling gangs, historian Cal Winslow notes this association in a brief commentary about the Porteous Riots in Edinburgh. A smuggler was executed in the Scottish capital in 1736 and a city mob rioted in response. The mob eventually lynched Captain John Porteous, who ordered soldiers to fire on the rioting crowd. Winslow states that “events such as these, when smuggling involved riot and the ‘mob’, inevitably led to the association of smuggling with the ‘lower class’ and the crimes were usually attributed to the poor.”⁶⁸ The two most protested Acts from that session of Parliament, the Gin Act and the Indemnity Act, aimed at that lower class of Britons. In a commentary on the explosion at Westminster Hall, one author noted that the Gin Act was not designed to hurt the merchant community, but to prevent the excess that occurred “amongst the lower and inferior rank of our people,” and the Indemnity Act was an example of the king’s “great goodness and mercy, because a vast number of unfortunate criminals are thereby pardoned and restored to liberty.”⁶⁹ An article in the *Daily Gazetteer* expanded on this sentiment. The author argued that the Indemnity Act revealed the humanity of Parliament, which allowed great numbers of criminals to be discharged of their crimes and it would save “the unwary persons who have been, and might hereafter be drawn into clandestine trading, to their irretrievable ruin.”⁷⁰ Smuggling was not only a disease, but it was communicable among the lower classes and could spread to those who thought it was an easy escape from hard labor or the rigors of daily life.

Violent confrontations between officers and smugglers continued to appear in newspapers after the passage of the Indemnity Act. Printers and authors now discussed the smuggling problem in relation to the new law. At first, articles contained references to the new Act taking effect, especially smugglers

⁶⁷ *Daily Gazetteer*, 4 Aug. 1736.

⁶⁸ Winslow, “Sussex Smugglers,” 120.

⁶⁹ *Political State of Great-Britain*, 115.

⁷⁰ *Daily Gazetteer*, 31 Jul. 1736.

taking advantage of indemnity, or forfeitures and punishments carried out in accordance with the law. However, commentaries soon focused on the continued smuggling problem, particularly violent encounters, and the ineffectiveness of the Indemnity Act. Smugglers began to take up the offer of indemnity, many of them who were already jailed for offenses against customs and excise laws, as well as other crimes related to their craft. Two smugglers who had been captured in London and were in Fleet Prison were indemnified and the *Daily Post* reported that the smuggler George Ball, who was also guilty of a jail break, was indemnified and released under the Act.⁷¹ The August installment of *The Political State of Great-Britain* reported that “a great number of smugglers were discharged out of the several jails of this Kingdom,” after requesting indemnity from the Act, “likewise a great number of persons who were under prosecution, and absconding, appeared and pleaded the said indemnity.”⁷² The author suggested that at least 3,313 people were able to be indemnified to save themselves from pending prosecutions, with forfeitures and penalties totaling £4,156,148.⁷³

The reports of other benefits of the Indemnity Act slowly surfaced, though they were not as numerous as the continued news of violent confrontations. A report in March 1737 in the *London Evening Post* noted that a ship was forfeited after a seizure at sea pursuant to a clause in the Indemnity Act and the *Daily Post* reported the same month that the first prosecutions under the new Act were going to trial.⁷⁴ A few months later, the printer of the *London Evening Post* published an item which suggested that a beneficial trade between Holland and Scotland, particularly cargoes of hay that were in short supply in northern Britain, was owing to the suppression of smuggling that stemmed from the Indemnity Act.⁷⁵ However, the deficiencies of the law began to show in the news rather quickly. By

⁷¹ *Daily Journal*, 27 Jul. 1736; *Daily Post*, 30 Oct. 1736.

⁷² *Political State of Great-Britain*, 133.

⁷³ *Ibid.*, 134.

⁷⁴ *London Evening Post*, 8-10 Mar. 1737; *Daily Post*, 10 Mar. 1737.

⁷⁵ *London Evening Post*, 6 Sept. 1737.

November, there were already smugglers who were indemnified for their crimes and were arrested for new violations.⁷⁶

The *Daily Post* carried two articles in September which indicated to readers that the smuggling problem in Sussex continued despite the new law. The first suggested that smuggling in that county, “notwithstanding the severe Acts in force against it is again reviv’d, insomuch that the fair traders have now no demand for tea,” and the second article suggested that fair dealers found little or no market for their customed goods in surrounding counties either.⁷⁷ The *Daily Post* items alerted readers that smugglers continued their trade unabated despite the strengthened laws and renewed policing efforts. The late September article emphasized the fact that violent gangs still roamed in Sussex, running “large quantities of tea from the coast into the country, going in strong bodies, sometimes twenty in a gang, well arm’d.”⁷⁸ The areas where smuggling was endemic before the Indemnity Act continued to be strongholds for illicit trade and the British reading public could quickly surmise that the new measures were not going to suppress the illegal activity.

Smuggling in Scotland especially took on a heightened notoriety after the Porteous Riots, with a brief *London Evening Post* article relating to readers that “attempts for carrying on the smuggling trade are continu’d there with as much briskness as ever,” though it also noted that “the Custom-House Officers are however as brisk as the smugglers.”⁷⁹ Newspaper printers included reports on the struggle between officers and smugglers more frequently than ever, often with brief commentaries on the Indemnity Act. One article concerning Edinburgh contained a description of a contraband seizure and related arrests after a “stout resistance,” and noted that the captured smugglers would “be tried on the late Act against smuggling.”⁸⁰ Nonetheless, newspaper printers and essay writers quickly began

⁷⁶ *Daily Post*, 1 Nov. 1736.

⁷⁷ *Daily Post*, 9 Sept. 1736.

⁷⁸ *Daily Post*, 27 Sept. 1736.

⁷⁹ *London Evening Post*, 24-27 Jul. 1736.

⁸⁰ *London Daily Post and General Advertiser*, 25 Aug. 1736.

suggesting that the Act was not enough. The *Old Whig* carried a report that stated, “notwithstanding the great care taken by the Legislature to suppress a practice so prejudicial to the country in general, and to every fair trader in particular, as that of smuggling; yet it appears the same is continued in many corners of the country, particularly Scotland.”⁸¹

The *London Evening Post* featured numerous articles in the eighteen months following the passage of the Indemnity Act which conveyed the dismay many Britons felt concerning the seeming failure of the law. News from Bristol in October read “the smugglers not deterr’d by the late Act of Parliament, still go on with their usual application in the county of Cornwall and other parts of the west of England,” further noting the large number of seizures occurring on the coasts.⁸² While the mass of seized goods indicated successful law enforcement, it also suggested a robust smuggling trade. A letter from Falmouth in Cornwall expressed the same concern the following January.⁸³ Another letter from the southwest coast of England, this one from Plymouth in October 1737, stated “smuggling was never so notorious as of late in these parts,” alongside another list of large seizures and, more concerning for the author, the low prices of smuggled commodities.⁸⁴ The printer inserted a comment after the letter, returning to the prevailing thought of those who had initially opposed these measures, that “the only certain method to prevent smuggling, is to lower the present high duties on tea, &c. or else our neighbours will always be sending such goods upon us.”⁸⁵ Public commentators strongly echoed the sentiments of the dissenting Lords. Opposition rhetoric filled many newspapers, including the *London Evening Post*. High taxes would lead to smuggling. Smuggling would lead to violence.

The August 1736 edition of *The Political State of Great-Britain* contained a section titled *Terrible Effect of high Duties*, which followed its section detailing the number of smugglers who could take the

⁸¹ *Old Whig or The Consistent Protestant*, 7 Oct. 1736.

⁸² *London Evening Post*, 9-12 Oct. 1736.

⁸³ *London Evening Post*, 22-25 Jan. 1737.

⁸⁴ *London Evening Post*, 27-29 Oct. 1737.

⁸⁵ *Ibid.*

benefit of indemnity from the recent Act, discussed above. The author contended that the large amount of forfeitures and penalties, which were liable to be indemnified, revealed the problem of high duties. Smuggling was rampant because of the protectionism on specific commodities, and he argued that it was a system that mostly affected the lower class. The author asserted that Parliament needed to be cautious “of laying such snares in the way of poor people,” because the advantage of breaking the law for the poorest Britons outweighed the risk and there was “no real infamy attending the running of the risk.”⁸⁶ Smuggling did not earn a man the general contempt of his neighbors in regions where it was most practiced and, in this author’s view, that contempt or infamy was the most effective deterrent from repetitive crime. He argued that without removing the temptation of significant profits, poor people of the coast would be drawn into the lucrative business. He further expressed doubt “that few even of those who are now pardoned will be entirely reclaimed.”⁸⁷ This contributed to the small shift in thought expressed in British print culture concerning smuggling. This author suggested that smugglers consisted mainly of poor Britons who were, in a sense, victimized by high duties. Impoverished and uneducated laborers were seduced into illegal trade by opportunities created by Parliamentary actions. They were influenced by wealthy organizers of the international trade, merchants who funded contraband networks. The Indemnity Act itself implied this phenomenon, noting that otherwise innocent Britons had been lured into a life of crime.

While newspaper printers and concerned writers expressed doubt about the efficacy of the Indemnity Act, they continued to relate stories about the persisting violence that had led to its creation. In the years following 1736 there was no shortage of large battles between customs officers or detachments of dragoons, and smuggling gangs who travelled armed near the coast in defiance of the Act. As early as February 1737, there was a report in the *Universal Spectator and Weekly Journal* that

⁸⁶ *Political State of Great-Britain*, 134.

⁸⁷ *Ibid.*

there was a group of smugglers in Sussex that “were so numerous and resolute, that they beat off the party of dragoons, and the Officers of the Customs,” who engaged the illegal traders.⁸⁸ However, another group of soldiers, assisted by private men, attacked the same smugglers and forced their retreat. Another report the following month related an encounter, called a “bloody skirmish,” in Sussex “between a large body of smugglers and the Custom-house Officers, assisted by six Dragoons on foot.”⁸⁹ The two groups engaged in battle, firing on each other for half an hour until the smugglers finally fled and left behind “near 2000 weight” of tea as well as one of their fellow smugglers whose horse had fallen on him.⁹⁰ The *London Evening Post* further reported events from the area, stating that a group of smugglers “who were thirty or forty in number, arm’d with blunderbusses, pistols, long guns, swords, and other offensive weapons,” fired upon soldiers, but eventually had to retreat leaving more tea.⁹¹ The editor of the *Grub Street Journal* suggested that these were the same gang of smugglers in an extended battle.⁹²

Southeast England continued to be one of the most frequently featured regions for news items on violent smuggling confrontations, though it was clear that the violent smuggling problem continued almost unabated throughout Britain. The concentration on Kent and Sussex likely stemmed from the prevailing perception of those counties as havens for smugglers. Printers took advantage of the established notion that violent smugglers roamed the southeastern coast in large gangs, despite consistent smuggling gang activity elsewhere. The *Daily Journal*, for example, featured a report, printed the same day as the “bloody skirmish” in Sussex referenced above, that indicated there was a battle between “a gang of smuglers, about 20 in number,” and the military in Suffolk, though all of the

⁸⁸ *Universal Spectator and Weekly Journal*, 12 Feb. 1737.

⁸⁹ *Daily Post*, 5 Mar. 1737.

⁹⁰ *Ibid.*

⁹¹ *London Evening Post*, 3-5 Mar. 1737.

⁹² *Grub Street Journal*, 10 Mar. 1737.

smugglers were able to escape.⁹³ Violence also continued at sea, where the threat of a forfeited a ship meant that some smugglers were going to resist search and seizure more resolutely. One account from Norfolk, occurring soon after the previously mentioned battles, related a violent confrontation between smugglers and a custom house sloop, wherein “the men on board the smuggling vessel, in open defiance of the laws, presented their blunderbusses and other fire-arms, being loaden, cock’d and prim’d, and with heavy threats and horrid imprecations, swore they would kill the first man” who attempted to board their vessel.⁹⁴ One of the smugglers attempted to carry out this threat upon Captain Joseph Southgate, though the weapon only flashed in the pan. There was a brief struggle, after which several smugglers laid down their arms, and Captain Southgate was able to make a significant seizure and several arrests. One of the apprehended smugglers had escaped from Dover Castle and was wanted for the murder of customs officer John Wood.⁹⁵ The article, printed in the ministerial *Daily Gazetteer*, revealed that smugglers were very well armed, pointing out that one of the blunderbusses was loaded with nineteen balls, but that crown officers were better men, relating that Captain Southgate acted “with indefatigable vigilance, and intrepid magnanimity...even facing death.”⁹⁶ The sense gleaned from print in Britain was that the latest intensification of the fight against smuggling was not going well for the government, despite the reported bravery of crown officers, which continued to be a common theme throughout the 1730s and 40s.

It is difficult to determine the number and size of smuggling gangs in this period, though it is evident they were growing. Contemporary sources vary, with many accounts noting dozens of armed smugglers engaged in battle and others suggesting that hundreds of men could be assembled in a short time. Some of the gangs were certainly large, though no sources mention hundreds of men actually

⁹³ *Daily Journal*, 5 Mar. 1737.

⁹⁴ *Daily Gazetteer*, 13 Apr. 1737.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

gathering together for smuggling ventures. Paul Muskett notes that “smuggling ships were met by gangs of up to a hundred men,” who were ready to carry the contraband onshore.⁹⁷ However, he further clarifies that “gangs generally numbered from 30 to 40 riders equipped with firearms, swords, clubs and loaded whips,” while the large numbers he described on the beach typically indicate that several gangs were coordinating.⁹⁸ The Indemnity Act failed to disband gangs and in some cases strengthened them, as condemned smugglers turned to criminal associations for protection. As contemporaries noted, this ensured some smugglers would become more desperate and violent as they knew the gallows awaited them upon capture. The public discourse on smuggling also began to regularly reference outlaw smugglers in this period.

Newspaper readers could easily see that the Indemnity Act was failing to suppress the violence that accompanied the smuggling trade. Battles continued on the coasts and gangs continued to travel in large numbers. There had always been a few prevailing conceptions of smugglers that made their way into print, most notably those of the members of violent smuggling gangs and merchants who had amassed fortunes through robbing the crown of its due. The Indemnity Act, however, threatened to restrict Britons’ liberty to congregate and travel while armed. Detractors of the law argued that innocent gentlemen were likely to be imprisoned because of the provisions that assumed the intentions of persons near the coast. However, as the author of the *Political State of Great-Britain* pointed out, the government’s fight against smuggling was more often going to affect the poorest members of society who lived in coastal regions where smuggling was not viewed through the lens of London’s print culture, but as a means to survive. In October 1737, the *London Evening Post* related news from Kent which stated Dover Castle was “full of prisoners for smuggling, chiefly fishermen,” who were to be taken to Fleet Prison before trial.⁹⁹ These were the subjects upon whom the weight of anti-smuggling legislation

⁹⁷ Muskett, “English Smuggling,” 101.

⁹⁸ *Ibid.*, 219; For detailed account of smuggling gangs, see Muskett, “English Smuggling,” 201-239.

⁹⁹ *London Evening Post*, 20-22 Oct. 1737.

fell in many cases, simple fisherman, farmers, and laborers who tried to supplement their income by taking part in the international illicit commercial networks that supplied tea and other goods to Britain.

The smuggling problem continued with relatively little change for almost a decade, as was reflected in print. Smugglers in the 1740s, however, seemed to grow more violent, particularly on England's southern coast. Again, this was due, in part, to newspaper printers' proclivity to publish news from that region. These smugglers, particularly the Hawkhurst Gang, were the focus of historian Cal Winslow's examination of Sussex smugglers as potential "social criminals."¹⁰⁰ Historian Frank McLynn argues, "in their purposive violence, social composition, and their rhetoric," these smugglers were "atypical of eighteenth-century smuggling."¹⁰¹ However, Paul Muskett discusses the earlier violence in Kent and Sussex and simultaneous violence in East Anglia to argue that the Sussex smugglers were not unique in purposive violence. Violence was a vital part of smuggling in the eighteenth century and as penalties increased, many were willing to use violence to evade capture and defend their illegally acquired property, in the face of seizure, transportation, and possibly death.

The public perception of smuggling and the associated violence had changed little from previous decades, though there were aspects of print culture that indicated that the problem with smuggling gangs was intensifying but following established trends. At the very least, more Britons were increasingly becoming aware of the problem through its consistent appearance in nearly all major newspapers and the similarly consistent flow of legislation meant to eliminate it. Discourse continued to focus on large smuggling gangs, their violence, and the strong but ultimately ineffective government response through both legislative and policing efforts. The contemporary and historical focus on the

¹⁰⁰ Cal Winslow, "Sussex Smugglers," in *Albion's Fatal Tree*, eds., Douglas Hay, Peter Linebaugh, John G. Rule, E.P. Thompson (New York: Pantheon Books, 1975), 119-166; Paul Muskett prefers the term 'Wealden' when referring to the Hawkhurst Gang and other gangs from the region, rather than using the traditional place names given to them by contemporaries. See Muskett, "English Smuggling," 211. However, the term Hawkhurst is used in this dissertation to remain consistent with eighteenth-century print culture.

¹⁰¹ McLynn, *Crime and Punishment*, 196.

1740s as unique in the history of British smuggling seems to stem, in part, from a new indemnity law, a new tax scheme, and the extensive publicity of the William Galley and Daniel Chater murders and subsequent trials of the smugglers responsible.¹⁰²

The newspaper coverage of the smuggling problem before these events shows that concerns in London largely remained the same as they were in the first decades of the eighteenth century. News items from Kent and Sussex predominated, likely reinforcing the conception that these areas had unique smuggling problems compared to other coastal regions. Muskett shows that the famed smuggling gangs of Kent and Sussex, such as the Hawkhurst and Mayfield gangs, were not alone. He notes that the Suffolk gang had its own violent smugglers who matched the activities of Gabriel Tomkin and Jacob Walter.¹⁰³ Despite similar smuggling activity elsewhere, newspaper printers and writers in London emphasized the growth of smuggling gangs in southern England in the mid-1740s. A letter from Romney in Kent printed in the *London Evening Post* stated that “a gang of about 300 smugglers pass’d through this town on horseback, loaded with tea, who rode with pistols and cutlasses in their hands,” and further mentioned that the residents hid in terror from the passing gang.¹⁰⁴ The following month in Sussex a much smaller group of smugglers showed how audacious the gangs could be in areas they controlled:

Last Thursday about One o’Clock in the Afternoon, six Smugglers, well-mounted, and arm’d with Blunderbusses, Pistols, &c. rode through the Town of Lewes with their Pistols drawn and cock’d, and their Blunderbusses in a Posture fit for Engagement, daring the whole Town, and bidding defiance to every Body, though there was a Company of Soldiers with their Officers in Town; but to complete their Impudence, they call’d for a Bottle of Wine at the White Horse Inn; the Drawer not bringing it so soon as they would have had it, one of them rode into the House, and seeing a Serjeant’s Halbert, took it, and they carried it away with them; and as they went thro’ the upper Part of the town, they shot into the Houses, and had like to have killed a Gentlewoman, the Ball passing very near her; thus they went on driving all before them, none daring to molest them. If some Stop be not shortly put to this sort of Rebellion, the Consequence will evidently be fatal.¹⁰⁵

¹⁰² The murders of William Galley and Daniel Chater are discussed fully in Chapter 4.

¹⁰³ Muskett, “English Smuggling,” 225.

¹⁰⁴ *London Evening Post*, 3-5 Jan. 1745.

¹⁰⁵ *Daily Advertiser*, 12 Feb. 1745.

Two weeks later an article in the *Daily Post* emphasized these reported events, stating “we hear from several parts of Kent and Sussex, that the smugglers behaviour is intolerable, the mischief they daily commit calls loudly on the legislature for punishment,” and further noting that a gang in Farnborough assaulted an innkeeper and broke out the windows in that public house.¹⁰⁶ These instances were not radically different than many that had occurred in the 1720s and 1730s or even earlier, though the supposed gang of three hundred men was much larger than most reports from earlier decades and the general scale of the problem seemed to grow more significant. There were similar instances, discussed above, in which smuggling gangs threatened violence to terrorize a town and assert their control, even in the face of nominal authorities. However, printers and authors began to emphasize the apparent lawlessness in the southeast, smuggling gangs’ violence, and innocent subjects’ terror. The public’s seeming desperation was also a familiar line of thought, expressed in newspapers, magazines, and the pamphlet literature on smuggling throughout the century, but the perception of the proliferation of violent gangs being a “sort of rebellion” was an important development in the ideology of London.

Annie Tock Morrisette examines this notion through the trials of smugglers tried at the Old Bailey after the Indemnity Act of 1736 was enacted. She compares the trials of 136 smugglers, distinguishing between an early period from 1736 to 1753 and a late period from 1784 to 1814, noting that there was a shift in discourse concerning smuggling between the two periods. In the early period, she argues that “smugglers generally claimed that smuggling was a legitimate activity based on traditional practice, whereas the authorities argued that it was detrimental to the national welfare and borderline treasonous.”¹⁰⁷ The position of the authorities in court was similar to discourse in print culture throughout the decade. The nature of smuggling lent itself to conceptions of disloyalty and

¹⁰⁶ *Daily Post*, 23 Feb. 1745.

¹⁰⁷ Annie Tock Morrisette, “‘They would have a law of their own’: The Discourse on Smuggling at the Old Bailey, 1736-1814,” (master’s thesis, East Carolina University, 2013), 4.

treason, which were only made stronger by the strong ties of smugglers to France and frequently publicized ties to Jacobitism. These concerns were heightened at various points, such as during wars with France or the Jacobite uprisings in 1715 and 1745. It was that fear of the rebellious or revolutionary potential of smuggling and the desire for order that led authorities to crack down on smuggling and to charge smugglers in the early period with “promoting disorder, robbing the king of revenue, and terrorizing the countryside.”¹⁰⁸ Again, the discourse that had been a consistent feature of print culture on smuggling made its way directly into state cases at the Old Bailey, showing that the views of the state were largely reflected in London print, though the oppositional lines of thought gained traction throughout the 1730s and 40s.

Fears of the French and Jacobites were especially high in the mid-1740s because of the ongoing War of the Austrian Succession and the Jacobite Rebellion of 1745. Newspaper printers and authors writing essays for the London press expressed the same concerns that had littered print culture for decades, that Britain was giving the French a staple commodity or specie and received brandy, tea, and tobacco in return.¹⁰⁹ Meanwhile, others expressed concern regarding the development of smuggling between the French and British colonists in America.¹¹⁰ Worse still, reports surfaced that the French were using smugglers to gain intelligence on the English coast during the war, sparking fears of an invasion piloted by Englishmen.¹¹¹ Interestingly, the British had Men of War stationed off the southern coast in response to this fear and smugglers were reported to have been unable to run goods from French vessels because of the increased naval presence.¹¹²

There were also reports that smugglers had taken up arms in Sussex, but the printer of the *General Advertiser* published that the reports were “intirely false...suppos’d to be contriv’d by the

¹⁰⁸ Morrisette, “Discourse on Smuggling,” 22.

¹⁰⁹ *Daily Post*, 9 Aug. 1745.

¹¹⁰ *Old England*, 28 Sept. 1745.

¹¹¹ *General Advertiser*, 13 Jul. 1745.

¹¹² *General Advertiser*, 1 Jan. 1746.

Jacobites, to help forward their lame cause.”¹¹³ The following week the paper featured another report concerning the removal of troops from Sussex, which were present to suppress the rumored rebellion by smugglers, further asserting that these were lies spread by Jacobite supporters and enemies of the crown.¹¹⁴ Newspaper printers seized on public fear of invasion or rebellion to reveal the unique threat smugglers posed to their neighbors. They had been linked to foreign enemies and domestic rebels throughout the century and commentators warned that they might potentially ally with them against Britain. Nonetheless, newspaper printers still focused more heavily on the violence perpetrated by smuggling gangs, which seemingly rose despite the Indemnity Act and every other government attempt to suppress the trade.

Looking at the first half of 1745, it is easy to understand the state of the smuggling crisis as it was portrayed in print culture. Officers were still outmatched by their smuggling counterparts who acted audaciously in public against government authority. The Custom House of London repeatedly printed notices in newspapers of violent confrontations, offering rewards for wanted smugglers who attacked crown officers. The growing crisis led to a more consistent government effort to mobilize the British reading public against smugglers. The *Daily Gazetteer* carried one of these, reprinted from the previous year, which recounted an altercation in Kent wherein three customs officers “were attack’d by about twelve or fourteen persons, suppos’d to be smugglers, arm’d with carbines and blunderbusses, who fir’d at the said officers through the windows” of the alehouse then broke into the establishment and robbed the officers and took their weapons.¹¹⁵ The ambush occurred over a year before, on February 27, 1744, but the smugglers had not been identified or apprehended. The *London Evening Post* carried another announcement from the Custom House of London from February 1744 that stated that a group of suspected smugglers kidnapped a man out of his bed in Suffolk and whipped him “in a most

¹¹³ *General Advertiser*, 14 Feb. 1746.

¹¹⁴ *General Advertiser*, 20 Feb. 1746.

¹¹⁵ *Daily Gazetteer*, 22 Mar. 1745.

barbarous manner, tied him naked cross a horse, and carried him off, and the said Henry Nursey [the victim] has not been heard of since.”¹¹⁶ These offenders had not been identified by authorities either. That was not the only reported case of someone being snatched out of their bed by smugglers. The month after that notice was reprinted by the Custom House, Hugh Goodyer, described as “a noted smuggler,” was committed to jail for breaking into an officer’s home with several other smugglers and “taking him out of his bed and beating him in a violent manner, whereby his life was despair’d of,” and then the illegal traders stole the victim’s horses.¹¹⁷ Not only were crown officials seemingly overwhelmed by the numbers and arms of smuggling gangs, but they were apparently unsafe in their own homes. Smugglers were repeatedly shown to have no mercy toward government authorities and were willing to torture and murder those who stood against them. Moreover, newspaper printers published stories to show that smugglers were as bold in public during the day as at night. A report in June stated that “a Serjeant, Corporal, and Drummer, were beating up for volunteers, in the middle of a full market at Cranbrook in Kent,” when members of a smuggling gang “took them all prisoners, lock’d them in the cage, and beat up for smugglers with their drum, offering five guineas, at the Drum-Head, for any stout man that would enter into their service.”¹¹⁸ This was the portrayed state of lawlessness that existed in areas that were seemingly controlled by smuggling gangs. Printers and authors frequently conveyed the terror that southeastern subjects felt at the hands of smuggling gangs.

The smuggling problem was portrayed as an economic crisis throughout the first half of the eighteenth century, but these reports of attacks on officers represented an increased focus on cruelty by smugglers. The violent operations of gangs were more frequently portrayed as uncontrollable despite the presence of the military. Authors now more frequently discussed the smuggling crisis as a failure of law enforcement and legislative efforts. This aspect of the discourse concerning the Indemnity Act was

¹¹⁶ *London Evening Post*, 6-9 Apr. 1745.

¹¹⁷ *Daily Post*, 31 May 1745.

¹¹⁸ *Daily Post*, 7 Jun. 1745.

prevalent by 1745. Some of the common complaints about the continued smuggling crisis were addressed in the *Westminster Journal*. The journal was ostensibly produced by a Thomas Touchit of Spring-Gardens and often featured letters from a “PLAINMAN” to the editor and a response from Touchit. In one of these letters, PLAINMAN wrote to Touchit to express his incredulity at the continued smuggling problem despite the increasingly draconian measures set against it. He was surprised to see several men had no indictments at the Surrey assizes even though they were caught smuggling large amounts of tea in groups of three or more while armed with offensive weapons. PLAINMAN stated that he expressed these concerns to some men in the coffee house where he was reading this news and a wholesale grocer responded that PLAINMAN must not be well versed in trade. If he were, it would be obvious that there were more gainers than losers from the laws against smugglers, including smugglers themselves. The grocer told PLAINMAN that “putting a man to death, or transporting him, can be of no other benefit than to deter others from the same practice...whereas the seizing his goods from time to time, and giving him liberty” to continue his illicit trade “may be a very profitable business to those who share the forfeiture.”¹¹⁹ The author knew that smuggling was increasingly portrayed as a growing crisis, which he “learn’d from the arguments made use of from time to time in conversation, as well as in the prints,” but he wrote that the interaction with the grocer made him realize that the smuggling problem continued possibly because of “wicked connivance,” and “clandestine forbearance in those who had power to blast it.”¹²⁰

In response to PLAINMAN, Touchit encouraged patience, hinting that there would be further action against smuggling in the future. He also reminded readers of the worrisome aspects of the law that drew the ire of sections of the House of Lords and authors in the press, noting that “a wicked minister” could use the law for “the oppression of honest gentlemen, who only travell’d with the

¹¹⁹ *Westminster Journal*, 6 Apr. 1745.

¹²⁰ *Ibid.*

common means of security.”¹²¹ Touchit further pointed out that since the law was enacted, “instead of carrying with it the terrors that were apprehended, tho’ they still hang over every one of our heads, it has been quite ineffectual,” suppressing the smuggling trade.¹²² Smuggling had actually increased, Touchit suggested, all while the revenue had been lessened between 1737 and 1743, and he agreed with his correspondent that it was likely from “a corrupt indulgence.”¹²³ He suggested, alongside many others who feared the loss of British liberties in the fight against smuggling, that “if lowering the port duties, and thereby lessening the temptation to import clandestinely, will answer the end of the most severe prosecutions, certainly the method is infinitely more eligible.”¹²⁴ The clauses in the 1736 law were, Touchit implied, governing “by severity and terror,” but reducing taxes to reduce the temptation on the poor (or greedy) was governing “by gentleness and lenity.”¹²⁵ He hoped that eventually the clause against men travelling armed would be removed from lawbooks as it was too oppressive for a free people. The increased concern in London’s print culture naturally reflected increased concern in the government.

In 1745 Prime Minister Henry Pelham, with Parliamentary consent, succeeded in reducing the prohibitive excise tax on tea, the most smuggled product at the time, from 4 shillings per pound to 1 shilling per pound with an *ad valorem* duty attached. This was, of course, the petitioners’ goal in 1736 before the Indemnity Act was passed. The move was successful to a degree, but taxes eventually rose again to help pay for the Seven Years’ War.¹²⁶ Many Britons rejoiced at the long-awaited reduction in a prohibitive duty, though it was relatively short lived. A satirical image was published for sale which mocked previous ministers who would not give aid to the merchant community (at least as perceived by

¹²¹ *Westminster Journal*, 6 Apr. 1745.

¹²² *Ibid.*

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ Hoh-Cheung and Lorna H. Mui, “Smuggling and the British Tea Trade before 1784,” 52-53; McLynn, *Crime and Punishment*, 179.

the artist) and praised Pelham for his service.¹²⁷ The print was titled “No Smuggling: Or the Crown Tea Committee Outwitted,” and featured twenty-one men, mostly sitting and standing around a long table, criticizing members at the head of the table who are offering “The Scheme.” Below the image there is a short poem that further reveals the artist’s view on attempts to curb smuggling:

What a Racket was made
By the Heads of the Trade,
Whom the Body had chose a Committee!
Under both John and Bob,
They projected a Job,
Not to succour, but live on the City,
But clear sighted Harry,
Who all Points can carry,
And acts for the Good of the Nation,
The Case took in Pity;
So drop’d this committee,
And heard a plain Representation.¹²⁸

The protectionist scheme in this view served the interests of the “heads of the trade,” which at the time were ostensibly the East India Company and wholesale tea dealers in London. The poem implies that two other Prime Ministers in the 1740s, John Carteret and Robert (Bob) Walpole, were happy to bow down to the interests of these few, while Henry (Harry) Pelham acted in the interests of the nation when he sought to reduce the tax, by a “plain representation,” which was finally done a few months after the image was published.

This reduction would likely reduce tea smuggling, but it would not stop it. Violence would continue and another Parliamentary committee investigated the smuggling crisis in 1746.¹²⁹ The committee’s report opened by stating that the tax reduction had lessened smuggling, but that it continued with very concerning aspects, such as smugglers’ commerce with France, in addition to the

¹²⁷ An advertisement for the print stated that it was to be published April 9th, 1745; *Daily Gazetteer*, 9 Apr. 1745.

¹²⁸ “No Smuggling: Or the Crown Tea Committee Outwitted,” 1745.
https://www.britishmuseum.org/collection/object/P_1898-0520-153.

¹²⁹ This Parliamentary Committee is regularly referred to as the 1745 Committee in accordance with the old (Julian) calendar as it began in March of 1746 according to the new (Gregorian) calendar. The dates here, and throughout this dissertation conform to the Gregorian calendar.

violence. Stephen Theodore Janssen, an eminent merchant of London who later wrote an extensive treatise on smuggling, appeared before the committee and gave testimony on the smuggling crisis. He focused on problems that existed throughout the eighteenth century, such as the smuggling of wool and specie for tea, brandy, and other goods. Janssen also provided an account of more pressing concerns for the government, such as the ties of smugglers to France during the ongoing War of the Austrian Succession.¹³⁰ In addition to the possibility of sensitive information being traded to the French, the committee directed its attention to the violence that had become a staple in British news. Gangs of dozens of heavily armed mounted men plied their trade on every coast of Britain, and it was reported to the committee:

That the Teas, and other Goods so conveyed, were guarded by formidable Gangs of Smugglers, armed; and that the Officers of the customs durst not attempt to make any Seizures; and that there have been several other instances since the late Act, wherein the Officers of the Customs have been obstructed and prevented in searching for, and seizing of, prohibited Goods on Shore, and on great Number of Vessels at Sea; and that where they have attempted it, they have been beaten, and cruelly wounded.¹³¹

Naturally, the consensus was that the Indemnity Act of 1736 did not adequately curb the “pernicious practice.” Smuggling gangs were too large and too well armed for officers, who were unable or unwilling to perform their duty. The committee resolved on several proposals that led to another law against smuggling that was intended to make up for any shortcomings of the previous one by stronger prosecutions and penalties for offenders.

Indemnity Act of 1746

Several laws concerning smuggling were passed in the mid-1740s, but one stands out as most significant in the fight against smuggling: the Indemnity Act of 1746.¹³² Each of the laws passed against smuggling in this period represented an intensification of the government’s efforts to suppress illegal

¹³⁰ *Journals of the House of Commons*, vol. 25 (1745-1750), 102.

¹³¹ *Ibid.*

¹³² 19 Geo. II c. 34.

trade, showing that the government was losing any patience it had with smugglers. Cal Winslow notes that the smuggling laws passed alongside Pelham's reforms "equal in savagery any eighteenth-century legislation."¹³³ Historians have pointed to the 1746 Act as the most significant, and brutal, in the government's actions against smuggling. Frank McLynn states that this Act marked the "first full-blooded assault on smuggling," as capital punishment became the preferred deterrent for smugglers over transportation.¹³⁴

The preamble to the 1746 Act referenced the violent and lawless gangs that overpowered seemingly helpless officers and it emphasized the terror inflicted upon innocent British subjects. The law then stipulated that three or more armed smugglers convicted of a number of illegal trade practices or obstructing officers would be sentenced to death.¹³⁵ Like the 1736 Act, three armed men could be convicted for the intention of running contraband, whether or not they were caught actually doing so. Also in line with the 1736 Act, the new Indemnity Act relied on an oath from a single witness to charge individuals with this capital offence. Parliament included even more drastic measures. Winslow and Paul Muskett both discuss the similarities of the 1746 Act to the "Black Act" passed in 1723 in response to the Waltham Blacks, poachers who blackened their faces and violently resisted authorities.¹³⁶ Muskett notes that these laws "were identical in the way they dispensed with the need for juries to assess the evidence related to the initial felonies."¹³⁷ Individuals who were sworn by an informant to be in contravention of the 1746 Indemnity Act were proclaimed in multiple issues of the *London Gazette* and in notices posted in market towns near the place where the offense was committed. Additionally, the sheriff of the county would proclaim the smuggler on market days in market towns near where the

¹³³ Winslow, "Sussex Smugglers," 134.

¹³⁴ McLynn, *Crime and Punishment*, 184.

¹³⁵ The Act enumerated numerous offenses subject to capital punishment, such as re-landing goods for which a drawback was claimed or obstructing an officer while disguised or wearing a mask.

¹³⁶ Winslow, "Sussex Smugglers," 134; Muskett, "English Smuggling," 37-38.

¹³⁷ *Ibid.*

alleged offense occurred. The proclaimed smuggler then had forty days to turn himself in or he would be guilty of felony and sentenced to death. The government was extending its efforts to mobilize the British reading public against illegal trade by proclaiming smugglers in the *London Gazette* and in market towns. The government's extreme measures and critical perception of smugglers were disseminated in communities where contraband men were most active. The new law also meant, as Muskett shows, that one witness could swear against a smuggler, who could then "be proclaimed, arrested, brought before the court, convicted and hanged."¹³⁸

Parliament expanded its attempts to diminish community support in the new Indemnity Act. The process of proclaiming smugglers in public prints and giving them forty days to surrender created a new category of outlaw smugglers. These were viewed as a more desperate group of smugglers, and by many accounts they were. The 1746 Act made it a felony, punishable by seven years transportation to the colonies, to harbor an outlawed smuggler. Whereas the 1736 law used financial incentive to sway subjects against smugglers, the new Indemnity Act increased punishments for complicity or assistance. Furthermore, the Act placed financial pressure on entire communities, stipulating fines for injuries and deaths suffered in the seizure of contraband.¹³⁹ County subdivisions were liable for a £100 fine for someone killed, £40 for someone maimed or injured, and up to £200 for loss of goods. Parliament also dramatically increased the financial incentive for capturing outlawed smugglers, now offering £500 for the capture and conviction of offenders. The Act also provided rewards to smugglers who provided information for the discovery of accomplices, £50 per offender convicted, and indemnification from the informer's crimes. The 1746 Act offered indemnity without providing information on accomplices, provided that the offender enlisted in the Royal Navy.

¹³⁸ Muskett, "English Smuggling," 38-39.

¹³⁹ County subdivisions, known as rapes, laths, and hundreds, were responsible for the fines.

Much of the debate surrounding the previous 1736 Act had centered around the issue of information sworn by a single person having the power to have a man arrested for travelling armed or being in possession of contraband goods. Peers in the House of Lords and opposition authors in London had argued that conniving individuals, possibly even smugglers themselves, could use the 1736 Act to divert official responses away from actual smuggling activities or intentionally have innocent subjects arrested and committed to jail, possibly even transported. This new statute in 1746 provided for much more severe penalties but serious opposition in Parliament concerning this Act was non-existent. There was no dissent or protest from either house that was published in any of the Parliamentary journals or histories, and there was no discussion in newspapers or magazines of such a protest occurring. The bill was passed into law with only minimal discussion on amendments.

The lack of debate on measures that were more drastic than the controversial 1736 law is interesting, though there were several factors that minimized debate and dissent compared with the previous decade. As Muskett points out, the Act was passed during the War of the Austrian Succession and contained wartime measures, such as the provision allowing smugglers to be indemnified if they enlisted in the navy afterwards.¹⁴⁰ In addition to the war, Parliament was also focused on the fallout of the 1745 Jacobite Rebellion, with most Parliamentary debates in that session falling upon one of those two topics. There was also less resistance to the ministry at the time, compared to the opposition to Walpole in the mid-1730s. Bolingbroke had retired from political life in 1735. Pulteney had been given a peerage and elevated to the House of Lords, which diminished his influence in the Commons. Walpole was no longer Prime Minister. All of this combined with the increasing perception of smuggling as a growing crisis in British society. Drastic measures to curb the violence that accompanied smuggling seemed necessary in the 1740s.

¹⁴⁰ Winslow, "Sussex Smugglers," 134; Muskett, "English Smuggling," 39.

Newspaper and magazine printers continued to report events related to smuggling and featured essays on how to lessen smuggling, but there was a notable lack of debate on severity of the 1746 law. The *Gentleman's Magazine*, for instance, featured an anonymous letter written to the printer, Edward Cave under his pseudonym Sylvanus Urban, which informed readers of the creation of an association to prevent smuggling.¹⁴¹ Instead of relying on government measures, this letter suggested that a more effectual method would be adherence to a pact among countrymen to shun foreign goods to end smuggling and to support the manufactures of Britain, Ireland, and the plantations. The author argued that it was what a true patriot would do, as smuggling was “nearly allied to rebellion, and what perjury, disaffection, and theft would be prevented by its overthrow.”¹⁴² The letter, and the magazine for that matter, made no reference to the law of 1746, aside from it being listed with all other laws passed during that Parliamentary session. The *London Magazine*, which carried the report on the 1736 debate in the House of Lords, did not have any articles that discussed the new smuggling law until June the following year when a report from the Attorney and Solicitor General stated that “all his majesty’s subjects, both Civil and Military, Magistrates, Officers, and private persons, have, without any express Warrant for that purpose, authority to seize and apprehend” smugglers who were armed and assembled in contravention to the laws in place against them. The report further stated that any individual attempting to apprehend a smuggler could “repel force with force, and justify any violence or hostilities which may be necessary to suppress and subdue them, or bring them to justice.”¹⁴³ The extensive debate on the British constitution or fundamental British liberties was absent. Newspapers continued, as mentioned, to carry news of confrontations and detailed the violence of smugglers, but featured few comments about the draconian nature of the new law. Rather, papers related news of trials under the new Act, as seen in the *Whitehall Evening Post* when John Cooke from Kent was sentenced to death,

¹⁴¹ *Gentleman's Magazine*, Dec. 1746, 645-646.

¹⁴² *Gentleman's Magazine*, Dec. 1746, 645.

¹⁴³ *London Magazine*, Jun. 1747, 256.

nine smugglers received transportation, and fourteen were acquitted.¹⁴⁴ Again, the opposition to the ministry had been reduced greatly from the previous decade since Walpole had fallen from power and the concerted effort to oppose ministerial and Parliamentary policies had diminished.

There were, of course, those who still saw the laws against smuggling as an affront to British liberties. There were also Britons who believed, as previously expressed in *The Political State of Great-Britain*, that smuggling had a greater effect on poor coastal people who were most likely to have the opportunity and the need for the profits of illicit trade. The most elaborate expression of these concerns was found in a brief pamphlet published in 1749 titled *A Free Apology In Behalf of the Smugglers, So far as their Case affects the Constitution*. The anonymous author, signed "By an Enemy to all Oppression, whether by Tyranny, or Law," offered many of the arguments that had been used against the Indemnity Act in 1736 and which had been used by the opposition against various measures in the 1730s. For example, he expressed fear about the perceived necessity for armed forces to suppress smuggling gangs. The author suggested that the level of armed forces needed to combat illegal trade would constitute a standing army, arguing "a kind of civil war will be established: the military power will insensibly gain ground: instead of entertaining any formidable ideas of a standing army, so much dreaded by our ancestors, it will grow familiar to us, nay, be cherish'd as useful and necessary for our protection against ourselves."¹⁴⁵ The military that saved Britain from smuggling, he reasoned, could be used to destroy what was left of British liberty. He argued that even France and Spain had less tyrannical laws against smugglers than Britain, though Britons called themselves a free nation and demonized those monarchs as wielders of arbitrary power. The author employed rhetoric that was reminiscent of the opposition of the previous decade, a radical Whig ideology critical of centralized executive authority and the erosion of personal liberty.

¹⁴⁴ *Whitehall Evening Post*, 14-16 Jul. 1747.

¹⁴⁵ *A Free Apology In Behalf of the Smugglers, So far as their Case affects the Constitution* (London, 1749), 23.

This anonymous author opened his free apology with a not-so-veiled attack on ministries that countenanced the militarized response to smuggling and the consequent demonization of Britons who engaged in illicit trade. He stated that “tyrants, wicked ministers, conspirators, inquisitors, nay devils themselves, have had their several apologists,” and then asked “is a poor smuggler a greater monster than all these?”¹⁴⁶ The government’s fight against smugglers had gone too far, in his opinion, and illegal traders were perceived as a greater evil than they really were. The author, more than any other in England to that time, cast the government as an oppressor and the smuggler as a victim:

The Cry is up against him; severe Laws proscribe him; revengeful Prosecutions bring him to the fatal Tree. Little Armies are sent to awe him, and no one, as yet, has had Courage, or Public Spirit enough to enquire into the probable Consequences of such alarming Extremities: But People run on wildly talking of Extirpation, without duly considering the Matter, apprehensive of nothing, imagining everything said and done against him to be good and lawful, and tending to no Evil whatever.¹⁴⁷

The author clarified that he did not intend to defend smuggling or those who had committed horrible acts of violence, such as the recently executed criminals involved in the murders of William Galley and Daniel Chater, but rather he was “an apologist for the present state and condition of the smuggler,” because the methods employed in apprehending and eliminating him “may prove dangerous to the constitution.”¹⁴⁸ Smuggling, in his view, was an evil, but it was one that was created by high taxes on goods that provided opportunity for profit. In this sense, “those unhappy wretches, called smugglers,” were “tempted beyond their power of resisting, and prosecuted beyond the bounds of a just and equal moderation.”¹⁴⁹ He acknowledged that those who organized smuggling, such as merchants in London who paid for contraband cargoes, were a different sort than those who carried it out and ultimately suffered the punishment for it.

¹⁴⁶ *A Free Apology in Behalf of the Smugglers*, 5.

¹⁴⁷ *Ibid.*, 5-6.

¹⁴⁸ *Ibid.*, 7.

¹⁴⁹ *Ibid.*

Smugglers were both villain and victim. While they had committed barbarous acts against officers and subjects of the crown, they were often led into the trade by the prohibitive taxes on commodities and merchants who organized the trade and kept the lion's share of profits. Merchants involved in smuggling were often criticized in this way, with many authors noting that they were able to maintain respect in society and rarely were caught and prosecuted. The author noted several times that the smugglers who suffered prosecution were poor people of the coast who were easily tempted by a better life through the profits smuggling offered, but they were also "a body of people the most illiterate of any in the kingdom, being generally utter strangers to reading and writing."¹⁵⁰ These people were then placed under a statute that could have them convicted of felony and sentenced to death without a proper trial for failing to turn themselves in based on notices in the *London Gazette* and information posted in market towns. He suggested that they may not have even known, either through their illiteracy or the connivance of officers, "who suppress rather than publish" the notices.¹⁵¹ He further critiqued the 1746 law, which was touted as an Act of Indemnity, but offered indemnity only to those who would then serve in the navy, which he claimed would take men away from their families, leaving them often without support. Even those who received indemnity, he continued, were liable to civil suits and could rot in debtors' prison rather than receive the liberty they were promised for turning away from smuggling. Others who received indemnity were required to inform against two or more smugglers. This, of course, could have been a fatal decision.

The author even expressed the view of many smugglers in an imaginary speech written from the viewpoint of a smuggler being put to death. The "condemned smuggler" warned others with his death, "to which I am *legally* brought for having purchased *Dutch* and *French* commodities with my own ready money, and selling them again."¹⁵² This was consistent with contemporary smugglers' views on their

¹⁵⁰ *A Free Apology In Behalf of the Smugglers*, 14.

¹⁵¹ *Ibid.*

¹⁵² *Ibid.*, 10.

legal predicament. As mentioned previously, Annie Tock Morrissette finds that smugglers defended their trade in Old Bailey trials during this time by claiming they were lawfully trading their own property. By extension, any violence that occurred in transmitting their own property, purchased with their own money, to another buyer was legitimate violence in defense of private property. It was one thing to make this argument from the perspective of a condemned smuggler who was shocked to be put to death for such a crime, but the anonymous author repeated the argument from his own perspective further down. In regard to the death penalty for smuggling, he wrote “were the case to be put and fairly argued, whether a legislature can, in the natural equity of things, enact a law for punishing any one with death for purchasing goods with his own money, even tho’ prohibited, I believe it might admit of some doubts; nay, there seems a presumption in favour of the negative.”¹⁵³ While some of the violence frequently involved in the smuggling trade warranted capital punishment by contemporary standards, the author was surprised the bloody code was used in smuggling cases where no violent crime was proved or even alleged.

The highly publicized murders of customs officer William Galley and government witness Daniel Chater, discussed in the following chapter, led to an increased awareness about the smuggling crisis, which had been a regular feature of news and pamphlet literature for decades, and the author of *A Free Apology* commented thoroughly on the public perception of smugglers. As mentioned, he discussed their monstrous image and the severe steps taken to exterminate them, but he also noted that the reading public all carried their own opinions on the smuggling crisis, claiming “every one, however miserable, can presently tell you the cause of smuggling, and yet no body, however wise, has it on an effectual method to remove it.”¹⁵⁴ Furthermore, he argued that there was a duality in the perception of smugglers, aside from the seeming support they received on the coasts, in that people condemned

¹⁵³ *A Free Apology In Behalf of the Smugglers*, 18.

¹⁵⁴ *Ibid.*, 20.

smugglers in public but purchased their goods in private. Even so-called honest merchants were known to decry smuggling, but vend smuggled goods when it suited them. To sum it up, he stated simply, “people detest the smuggler, but have a very great liking to the cheapness of his contraband commodity.”¹⁵⁵ Britain, in his view, was conflicted when it came to smuggling.

That Britons had conflicting views on smugglers and smuggling was certainly true. Contemporaries believed that the amount of tea smuggled into Britain was greater than the amount legally imported and many who decried the activities of smugglers on the coasts would have discussed the matter over a cup of their smuggled wares. The discourse over smuggling had evolved to more accurately reflect the conflicted relationship with the trade. While it had been universally condemned initially, the development of radical Whig opposition to ministerial power in the 1730s led to dissent in the way the government’s fight against smuggling was being executed. Smuggling was detestable, they admitted, but dissenting politicians and authors argued that it was not so great an evil that it required the suspension of British liberties and the abandoning of the constitution. The argument for less prohibitive taxes, which had been a part of the merchant community’s discourse from the beginning, gained more traction with the opposition to the severe measures of the 1730s and 40s. Smugglers themselves, despite the atrocities committed by some among their number, also received a small respite from the condemnation as authors began to suggest that they were victims of a Parliament that tempted them beyond their ability to resist and who profited from the continued smuggling trade.

¹⁵⁵ *A Free Apology In Behalf of the Smugglers*, 22.

Cruel Villains and Honest Thieves: The Sensationalism of Smuggling in the Mid-Eighteenth Century

Smuggling pervaded Britain by the mid-eighteenth century, both in practice and in print. It was a way of life for many coastal subjects, a source of great wealth for merchants in various ports, and it was a persistent feature of British print culture. The government's escalating assault on smuggling and the increasing awareness of the crisis from news of violent battles and murders transformed smuggling into a more sensational topic than ever before. The London press continued to drive the counter-narrative to the perceived acceptance of smuggling on the coasts through a barrage of news, economic pamphlets, and works dedicated solely to illicit trade and the criminals that perpetrated it. However, events in France in the mid-eighteenth century led to coverage that was sympathetic to smugglers, to a degree, and which popularized the concept of the honorable smuggler as an honest thief in English print. The sensationalism of smuggling and the duality of portrayals of smugglers in the mid-eighteenth century are best understood through the reactions to the murders of William Galley and Daniel Chater and to the saga of Louis Mandrin, a famous French smuggler.

English Smugglers

The late-1740s marked the height of the smuggling crisis in terms of violence and government response. The Indemnity Act of 1746 had taken effect, but like other pieces of legislation it failed to produce positive change in the fight against smuggling. Frank McLynn argues that "the main effect of the 1746 Act was to ensure that bloody clashes were more likely, since smugglers now went armed."¹ Cal Winslow shows that this perception of the 1740s has persisted since the nineteenth century, and in all likelihood it was perceived as the height of the smuggling crisis for contemporaries, as Charles Fleet

¹ Frank McLynn, *Crime and Punishment in Eighteenth-century England* (1989; repr., New York: Routledge, 2002), 184.

wrote of the guerilla war between smugglers and the crown in an 1878 work.² Winslow argues that the informal war against the smugglers in Sussex in the 1740s was “possibly the most extraordinary chapter in the entire history of smuggling.”³ However, Paul Muskett claims that the Sussex smugglers were not unique in the 1740s, despite the historical and contemporary focus on them. The smugglers of East Anglia were equally violent in most cases and operated in a similar fashion. Violence and intimidation were integral to the smuggling trade in Britain at that time. Muskett instead argues that “the increasing violence of the later 1740s can be seen as a response to external and internal pressures,” that affected smugglers of different regions, namely the reduction in taxes making legal tea competitive in the market, naval presence off British coasts that prevented many smuggling vessels from running goods, and government rewards for information which led communities to search out wanted smugglers.⁴ Slimmer margins for smugglers certainly led to more determination to secure their goods. This motivation influenced the infamous attack on the Custom House at Poole in 1747, which served as a catalyst for several events discussed in this chapter.

The violence of smugglers had been apparent to the public for decades up to this point. The reports of violence were more frequent, though this was partially because the number of publications that reported such events had expanded significantly. Adding to the list of publications discussed in previous chapters, smugglers began to appear in the *Ordinary of Newgate's Accounts* in the 1730s. Smugglers were executed more frequently beginning in 1747 after the new Act had taken effect. British print culture on smuggling became sensationalized through these accounts, the reported violence from this period, and the Galley and Chater murders. It was these murders, Cal Winslow argues, that “finally fixed the attention of the entire nation on Sussex.”⁵ While true, it should be noted that the nation was

² Charles Fleet, *Glimpses of Our Sussex Ancestors*, vol. 1 (Lewes, 1878), 74-75.

³ Cal Winslow, “Sussex Smugglers,” in *Albion's Fatal Tree*, eds., Douglas Hay, Peter Linebaugh, John G. Rule, E.P. Thompson (New York: Pantheon Books, 1975), 121.

⁴ Paul Muskett, “English Smuggling in the Eighteenth Century,” (PhD diss., Open University, 1996), 237-238.

⁵ Winslow, “Sussex Smugglers,” 136.

already preoccupied with the southeastern smuggling problem compared to regions with similar levels of illegal trade and violence. The Galley and Chater murders confirmed readers' perceptions that gangs of Kent and Sussex were more ruthless than other smugglers. Britons were able to follow the events through newspapers, accounts of the trials of smugglers involved, and a contemporary account written on the events in 1749. The coverage of the murders and subsequent trials was more extensive than any other similar events and this focus is largely responsible for the historical perception of the region's violence as being unique in the history of eighteenth-century smuggling.

Members of the Hawkhurst Gang murdered William Galley and Daniel Chater because Chater was set to testify against one of their associates. The extreme violence of the Hawkhurst Gang and its brazen activities in 1747 led Frank McLynn to describe that year as their "*annus mirabilis*."⁶ The gang's continued crimes, which were not limited to smuggling, meant that there would be a heightened visibility of the south coast in relation to the public perception of the smuggling problem. The Hawkhurst Gang's violent actions were matched in many cases by smugglers in other parts of the country, despite newspaper printers concentrating on southeastern Britain. The reports of smuggling-related gang violence in other coastal areas served to heighten the sense of crisis portrayed in the London press and ensured that the events in the south would be further sensationalized and consumed by the reading public. The *Whitehall Evening Post* carried a report days before the Hawkhurst Gang's raid on the Poole Custom House that read "the smugglers are now got together in great bodies in the County of Norfolk, and are committing such disorders, that three troops of horse have been ordered down thither to quell them."⁷ Just to the south in Suffolk, news of an altercation showed similar trends in the scope of violent smuggling gangs, with thirty mounted and armed smugglers attacking customs officers and a regiment

⁶ McLynn, *Crime and Punishment*, 186.

⁷ *Whitehall Evening Post*, 3-6 Oct. 1747; This article, as well as most others relating significant news of the smuggling crisis, was reprinted in numerous journals, ensuring that a large portion of the reading public was aware of the situation on the coasts. This article in particular was reprinted in the *St. James Evening Post*, *The Craftsman*, *Old England*, *General Advertiser*, and *Dublin Journal*.

of Royal Welch Fusiliers, though the criminals were repelled.⁸ On the west coast, news from Bristol related that “a gang of eight horse-stealers (or rather outlaw’d smugglers) are fallen into this part of the kingdom,” and that they had committed numerous robberies in the area.⁹ This type of activity was also frequently reported around London itself, most notably in late 1747 by a gang led by a man who called himself Robin Hood. One newspaper account stated that “robberies are become so very frequent a few miles from London,” all carried out by “a desperate gang,” who were “said to be smugglers.”¹⁰ A few weeks later the *London Courant* featured another report on the self-styled “Robin Hood’s Gang,” which the editor described as “a terrible gang of villains...who have committed very great outrages among the poor country people; they are all supposed to be outlawed smugglers.”¹¹ These articles reveal the growing concerns of the London press and a changing awareness of the smuggling crisis.

Smugglers, who had regularly been shown to employ violence to defend their trade, were now commonly engaging in armed robberies. Violence in previous decades, especially encounters which found their way into print, were typically confrontations with officers or subjects who attempted to halt smugglers’ illicit commerce. In the late 1740s smuggling gangs were regularly reported as engaging in other violent crimes that did not relate to their smuggling ventures. As noted above, there were many reasons for this escalation in violence and Britons were aware that the smuggling crisis had evolved into a more violent crime wave. An issue of the *London Evening Post* revealed the situation even more clearly. In the section on Country News the editor included a series of robberies, two of which ended in murders. One of the victims was stripped of his clothes after he was killed. Below the section of robberies, the editor included a note which read “the above robberies are thought to be committed by some of the outlaw’d smugglers of the south.”¹² The same issue related news of a gang of robbers who

⁸ *General Advertiser*, 15 Dec. 1747.

⁹ *General Evening Post*, 14-17 Nov. 1747.

¹⁰ *London Courant*, 16 Oct. 1747.

¹¹ *London Courant*, 9 Nov. 1747.

¹² *London Evening Post*, 10-12 Dec. 1747.

were based in Wiltshire County who “skulk’d, under the character of smugglers, and were the terror of that part of the country.”¹³ Smugglers, up to that time, were portrayed as a very specific type of criminal. While some would venture into other sorts of violent and non-violent crime, this was not the regular avenue of their illicit trade. Smugglers, especially after the 1746 Act, were commonly portrayed as violent criminals who would as likely rob someone as they would sell them smuggled goods. Another noteworthy change in the public perception of smugglers was the frequent addition of the word “outlawed” to their description. The new law, following the style of the Black Act, as historians have noted, created a new classification of smuggler. By the 1746 Indemnity Act, according to an informer’s oath, smugglers were proclaimed in the *London Gazette* and in market towns near where the alleged crime occurred. The proclaimed smugglers then had forty days to turn themselves in to authorities, otherwise they were outlawed and information leading to their capture and conviction could earn an informant £500. News reports on fugitive smugglers show that these outlawed criminals were perceived as more desperate and dangerous than illegal traders of the early eighteenth century. Groups of these outlaws were seemingly less smuggling gangs than violent criminal gangs with a proclivity for robbery and, in one report, for horse stealing. This portrayal was the new standard in the year that the Hawkhurst Gang engaged in their infamous exploits, which only heightened the sense that the smuggling crisis had escalated.

The Hawkhurst Gang was notoriously violent in southern England, but several events in 1747 stood out from their other exploits. Their failed attack on Goudhurst was notable for its brazenness, but also because it was so ill-conceived. The gang warned the town of an imminent attack and the town prepared to meet them. Several newspapers carried the same extract from a letter describing the event:

Yesterday, about Five o’Clock in the Afternoon, 15 Smugglers, went to Goodhurst, all arm’d with Pistols, &c. and swore they would fire the Town. The People having Notice of it, got all arm’d, and receiv’d their first Fire, but none were hurt; they fir’d at the Smugglers, and shot two through their heads, whereupon the others made off. The two men kill’d are George Kingsman,

¹³ *London Evening Post*, 10-12 Dec. 1747.

an Outlaw, who shot a Man at Hurst-Green some Time ago; the other's Name is Barnitt Wollitt, an Outlaw also. They rob and plunder every Body they meet with.¹⁴

The smugglers who died were identified as outlaws and the gang was noted for its proclivity for robbery, rather than mentioning its smuggling activities. The event did not receive extensive attention in the London press beyond these reports, likely because this was not all that uncommon an occurrence. Smugglers had threatened towns before; they had even attacked them or kept residents in fear through continued intimidation. The *London Evening Post*, however, did carry a follow up report from a letter purportedly from Goudhurst itself. The author informed readers that the country around Goudhurst “had been long under the cruel and arbitrary dominion of smugglers, who had so far intimidated all sorts of people, that no one durst whisper any dislike of their proceedings.”¹⁵ Their crimes, the author assured, went far beyond smuggling. He related that the Hawkhurst Gang “took prisoners, and whipp’d in a most inhuman manner, several innocent people,” and they “robb’d and destroy’d the effects of others without restraint.”¹⁶ After describing the battle in more detail, which consisted of fourteen men firing on the approaching smugglers from a house with a good vantage point at the edge of the town, the author suggested that the government needed to help end the smuggling crisis, which he further acknowledged had evolved when he closed his letter “those pestilent fellows, the smugglers, who now have taken up the trade of robbing every body.”¹⁷ The news about community resistance at Goudhurst joined a growing number of reports concerning confrontations between a discontented populace and smuggling gangs. By the mid-1740s there was a significant degree of public awareness that smuggling gangs across the country turned robbery more consistently, dominated regions of the south and terrorized subjects of those counties. The London press depicted the Hawkhurst Gang as the worst of

¹⁴ *London Evening Post*, 23-25 Apr. 1747; Also printed in *St. James's Evening Post*, 23-25 Apr. 1747; *Whitehall Evening Post*, 23-25 Apr. 1747.

¹⁵ *London Evening Post*, 28-30 Apr. 1747.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

the smuggling gangs. This perception would be cemented throughout 1747, especially in October with the Custom House raid at Poole.

The raid on the Poole Custom House served as a catalyst for the murders of William Galley and Daniel Chater, but it also refocused national attention on the southern coast of England. Frank McLynn calls it “a bare-faced attack on the credibility of the government,” and the increased focus it received in print relative to other extraordinary events around that time, such as the Battle of Goudhurst, is indicative that newspaper printers understood the importance of the event and the distinction between that and other gang activity.¹⁸ In the early morning hours of October 8, 1747, the Hawkhurst Gang, allied with another group of smugglers, set to recapture tea that had been seized and stored in the Poole Custom House. On the surface, it was not the most extraordinary event. There was no bloody battle or extensive property damage as seen in many other encounters, but it was a show of force against a government institution. Four evening papers all carried the same article informing readers of the raid:

We have the following extraordinary Account from Pool in Dorsetshire, viz. ‘That on Wednesday Morning, about Two o’Clock, a numerous Company of Persons unknown, arm’d with Blunderbusses, Pistols, Swords, &c. came into that Town, broke open his Majesty’s Custom-house there, and forcibly carried off a large Quantity of Tea, which had been lately brought in by the Swift Privateer, who took a Smuggling Vessel. They told the Watchmen that they came for their Own, and would have it; but would do no other Damage: and accordingly did not.’¹⁹

Despite the relatively non-violent nature of the raid, the government response was strong. The Duke of Newcastle published official notices and requests for information leading to arrests and offers for rewards in the *London Gazette* immediately. Newcastle’s announcement emphasized that the smugglers had broken through several doors in their quest for the tea and noted that the gang was well armed and mounted and had at least sixty men in their raiding party. The Commissioners of the Customs offered £200 for information leading to the arrest of anyone involved in the raid and further offered a pardon

¹⁸ McLynn, *Crime and Punishment*, 187.

¹⁹ *London Evening Post*, 8-10 Oct. 1747; *Whitehall Evening Post*, 8-10 Oct. 1747; *General Evening Post*, 8-10 Oct. 1747; *St. James’s Evening Post*, 8-10 Oct. 1747.

and reward for anyone involved who would provide information against their fellow smugglers.²⁰ Newspaper printers noted a military response after the raid, while gang members were reported to celebrate their victory and publicly sell some of the 4,000 lbs. of recovered tea in Fordingbridge on their way back to Kent and Sussex.²¹ It was there, at Fordingbridge, that Daniel Chater would unfortunately enter the story. He had worked with one of the smugglers, John Diamond (Dimer and Dimar in some accounts), who “threw Chater a bag of tea and shook his hand.”²² There were dozens of witnesses to this since the procession of these smugglers was a public spectacle in the town and Chater was immediately wanted for questioning. The following February he was escorted by a customs officer, William Galley, to be examined by officials near Chichester. They never arrived at their destination.

Galley and Chater disappeared on the road and the official notice in the *London Gazette* from Newcastle expressed fear of their demise. The notice revealed the relevant details, naming Chater, Galley, and Diamond, and stated that the two travelers “have not since been heard of,” and that there was “reason to apprehend, from several circumstances, that the said Daniel Chater and William Galley were murdered by smuglers.”²³ The situation in the south was certainly worse than ever, as seen in the London press. A few days later, the *London Evening Post* carried two reports that showed the progressing smuggling crisis, first noting the rise of militias, such as in Goudhurst, which were attempting to “clear the country of this nest of robbers and murderers.”²⁴ The issue followed with news from Hampshire, “that the cloaths of the two persons who were to be evidences for the King, have been found in a wood...very bloody, so that there is little doubt but that they are murder’d.”²⁵ This report

²⁰ *London Gazette*, 13-17 Oct. 1747; Reprinted in numerous papers, see *London Evening Post*, 22-24 Oct. 1747; *Whitehall Evening Post*, 20-22 Oct. 1747; *General Evening Post*, 20-22 Oct. 1747.

²¹ *London Evening Post*, 17-20 Oct. 1747; *General Evening Post*, 17-20 Oct. 1747; *Westminster Journal or New Weekly Miscellany*, 17 Oct. 1747.

²² Winslow, “Sussex Smugglers,” 137.

²³ *London Gazette*, 15-19 Mar. 1748; *London Gazette*, 22-26 Mar. 1748; *General Evening Post*, 19-22 Mar. 1748.

²⁴ *London Evening Post*, 24-26 Mar. 1748.

²⁵ *Ibid.*

referred to Galley and Chater, who were travelling from Hampshire to Chichester in Sussex. However, without bodies or witnesses there was little more for newspaper printers to publish. Furthermore, the disappearance of an officer and a witness was not altogether extraordinary. Officers had been killed somewhat regularly, often quite brutally, in episodes of gang-related violence, and individuals turned evidence for the king were also natural targets for smuggling gangs. Without bodies, these were just two more persons who disappeared. Thus, the London newspaper press moved on from this incident without further comment and printers continued to intersperse columns with news from the ongoing smuggling crisis, like the saga of William Gray the smuggler. Gray was rumored to be worth over £10,000, escaped from Newgate, was recaptured, sentenced to transportation, turned evidence for the king, then eventually died in Newgate amid public concerns about his impending release.²⁶

Even the story of William Gray was rather unexceptional. None of the details of Gray's story, from his wealth to his jailbreak, were new to printed accounts of smugglers by the mid-eighteenth century. The wealthy smuggler from Hawkhurst was a fleeting story in 1748 alongside numerous violent encounters, home invasions, death sentences, and speculative pieces about the state of the smuggling crisis on the southern coast. In other words, the murders of Galley and Chater could have passed without the sensational coverage that they would eventually receive. These murders were not completely out of place in the smuggling crisis at the time. However, the consistency of the violence from that region and the perceived lawlessness, especially in regard to the raid of a government Custom House and the murder of an officer and witness, finally exploded after the discovery of their tortured remains.

There was evidence, however, that the public perception of smuggling intensified during these years through the consumption of print culture, before it was sensationalized by the Galley and Chater

²⁶ *Whitehall Evening Post*, 28-31 May 1748; *London Evening Post*, 9-12 Apr. 1748; *London Evening Post*, 21-24 May 1748; *General Evening Post*, 28-31 May 1748; *Penny London Post or The Morning Advertiser*, 27-29 Jul. 1748; *London Evening Post*, 22-24 Nov. 1748; *London Evening Post*, 20-23 Aug. 1748.

murders. A letter printed in the *General Evening Post*, purportedly written by a “Gentleman in Sussex,” lamented the worsening smuggling crisis and linked it with the recently defeated Jacobite Rebellion in 1745. In fact, the author stated that an unnamed Earl and he “treated this crime as a species of rebellion,” and the actions of smugglers in southern England had proven that point.²⁷ He also assured the readers, who were undoubtedly familiar with the crimes of smugglers, that the “outrageous proceedings in the publick papers, are not a tythe of what they really commit,” and that the “terror” and “horror” inflicted upon the subjects of the south could best be described by John Milton’s description of Adam’s vision in which “Death’s Ministers...deal death inhumanly to men.”²⁸ It is clear that there was a growing perception that many coastal subjects lived under a reign of terror at the hands of smuggling gangs. The author blamed, in some measure, the statutes that created outlawed smugglers who were so desperate that no act was too vile as their life was continually on the line, even if they had previously committed nothing but smuggling crimes. If the King’s Mercy was warranted for those “who were manifestly either compelled or ensnared into the late detestable rebellion,” then surely another similar act could release the smugglers of their outlaw status, which had led to more serious crimes, the author reasoned.²⁹

Government measures were again implicitly to blame in the press. This was one of the most consistent features of the print culture surrounding smuggling, alongside the characterization of smugglers as base villains. Government supporters naturally felt that the measures enacted to that point were not strong enough and defended capital punishment for outlawed smugglers. Soon after the September letter appeared in the *General Evening Post*, the bodies of William Galley and Daniel Chater were found. Supporters of severe legislation against smugglers felt their position bolstered. An anonymous author responded to the letter in the *General Evening Post* to argue against further

²⁷ *General Evening Post*, 1-3 Sept. 1748.

²⁸ *Ibid.*

²⁹ *Ibid.*

clemency for smugglers. The author noted that the original letter writer was correct in his first assessment of the smugglers, that they were ten times worse than was portrayed in newspapers, and that “the discovery lately made of their horrid usage of two unhappy men employed to bring one of their gang to condign punishment, confirms all that has been alleged against them.”³⁰ He further stated that while the circumstances of the discovery had been printed in newspapers, the details of the murders had not. The horrific manner of their deaths, he assured readers, were “a piece of news worthy the attention of the publick, and especially of those indifferent persons who are apt to bestow their pity on these wretches when brought to punishment, thinking the defrauding of the revenue too venial a crime to be punished with death.”³¹ This central concept, that many believed smuggling to be only a minor infraction, if any at all, was something that would be seized on by authors in the wake of the Galley and Chater murders and those who railed against smuggling argued that smuggling naturally led to violent crimes.

The account of the murders provided in the letter, reprinted in the October edition of the *London Magazine*, was the first report Britons read regarding the events and it emphasized the brutality of the gang and its reign of terror in southern England. To the latter end, the author wrote “so great was the terror of the smugglers in these parts,” that no one would offer evidence against John Diamond until Daniel Chater was compelled to do so.³² Chater, the author related, had a large family and became victim to “a death more cruel than what the severest laws order for the worst villains.”³³ The following brief account became the first details the public learned of the victims’ fate:

They began with poor Galley, and broke every Joint of his Body; cut off his Privities and Nose, and after several Hours of torturing him, vouchsafed at last to put him out of his Misery, and buried him nine Feet deep by the Road Side. As to Chater, they carried him to a dry Well, where they hung him to a cross Beam by the Waste, and where undoubtedly he ended his Days with Hunger and exquisite Pain, for upon their Return to the Place some Days after he was heard to

³⁰ *General Evening Post*, 11-13 Oct. 1748.

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*

Groan, upon which they cut the Roap, and letting him drop to the Bottom, covered him with Logs of Wood and Stones.³⁴

This account spread through the London press and as Winslow noted, the eyes of the nation became fixed on the smuggling crisis. Over the next several months London newspapers were filled with updates on arrests, the development of the Special Commission at Chichester to try smugglers involved in the murders, and the violence in Kent and Sussex that continued unabated despite the increased government presence and focus.

Charles Lennox, the Duke of Richmond, exerted enormous efforts to bring the smugglers who murdered Galley and Chater to justice. Richmond's seat was Goodwood House, a country house near Chichester. Smugglers had seemingly overrun the region where he was a prominent lord and landowner. Richmond took responsibility to find and punish the murderers and the gang members who raided the Poole Custom House. The Duke continued to pursue smugglers in the southeast even after the Galley and Chater murder trials. He wanted to seize on the public awareness of the crime and subsequent trials because, as Winslow argues, he "believed that only a great amount of publicity and a large number of capital convictions could stop smuggling."³⁵ Richmond's campaign against the smugglers involved in the raid at Poole and the infamous murders was likely two-fold. The Duke was primarily responsible for the Special Commission at Chichester that tried the smugglers. He petitioned the government for the Commission and arranged for London judges to serve on it. Richmond's remarkable efforts, in which he "personally gathered evidence, paid informers and interrogated witnesses," eventually secured convictions of the smugglers involved.³⁶ Winslow notes that Richmond "kept lists of the smugglers he pursued," and there were thirty-five executed during his two-year campaign against them, while "another ten were spared the gallows by dying in gaol."³⁷ Moreover, Richmond was likely one of the

³⁴ *General Evening Post*, 11-13 Oct. 1748.

³⁵ Winslow, "Sussex Smugglers," 160.

³⁶ *Ibid.*, 138.

³⁷ *Ibid.*, 166.

authors engaged in the most concerted print campaign against smuggling in the mid-eighteenth century.³⁸ A series of publications in 1749 following the trials of the smugglers seized on the publicity of the events to demonize smuggling gangs and diminish the popular support they were believed to have. In addition to anonymous tracts, there were the official proceedings of the Special Commission, and Ordinary of Newgate's account of the smugglers tried and executed in London. Throughout these publications authors consistently emphasized the barbarism and cruelty of smugglers. These were not unique qualities to the Hawkhurst gang members who murdered Galley and Chater, many argued, but rather they were the inevitable result of smuggling. Instead of extraordinarily evil men, these were generally described to be common men who were led to extraordinary acts by first accepting that smuggling was no crime at all. If one believed that smuggling was moral, the violent defense of that illegal act was justifiable in their minds.

The proceedings of the Special Commission at Chichester, ostensibly a straightforward relation of the trials, stressed the barbarity and cruelty of smugglers. These points were reinforced in the print culture surrounding the murders. The counsel for the crown, in elaborating on the crimes of the accused, noted the "wicked malice" the smugglers showed to the victims as well as their "barbarous usage" of Chater, a phrase used consistently throughout coverage of these crimes, and he further described the affair as "a scene of cruelty and barbarity."³⁹ The counsel for the crown later related the smugglers' decision to murder Galley and Chater and declared that the crime was a predetermined act "of minds wickedly and cruelly disposed, and executed with all the imaginable circumstances of

³⁸ See Winslow, "Sussex Smugglers," 128 n.1, concerning the Duke's potential authorship of *A Full and Genuine History of the Inhuman and Unparalleled Murders of Mr. William Galley, a Custom House Officer and Mr. Daniel Chater, a Shoemaker, by Fourteen Notorious Smugglers, with the Trials and Execution of Seven of the Bloody Criminals at Chichester* (London, 1749), which was published under the name "Gentleman of Chichester."

³⁹ *The Whole Proceedings on the Special Commissions of Oyer and Terminer and Goal Delivery, for the County of Sussex, Held at Chichester, the 16th, 17th, and 18th Days of January last* (London, 1749), 15.

barbarity.”⁴⁰ The counsel’s emphasis on the heinousness of aggravating circumstances in a murder trial is not at all surprising, but the repeated stress on smuggling as the root cause of the evil is noteworthy.

Early in the trial, the counsel for the crown made several statements meant for the witnesses and the wider public, clearly using the publicity of the trial to make broad arguments against smuggling. He pointed to smuggling as the reason for many of the crimes that were terrorizing southern England, especially the murders for which the commission was held:

Smuggling is not only highly injurious to Trade, a Violation of the Laws, and the Disturber of the Peace and Quiet of all the Maritime Counties in the Kingdom; But it is a Nursery of all Sorts of Vice and Wickedness; a Temptation to commit Offences at first unthought of; an Incouragement to perpetrate the blackest of Crimes without Provocation or Remorse; and is in general productive of Cruelty, Robbery, and Murder.⁴¹

This conception of smuggling had become common leading up to these trials as outlawed smugglers were reported to be more violent and more inclined to highway robbery. The crown’s counsel further intimated the government’s concern about smuggling gangs, which were heavily armed and dangerous. This commentary on smuggling came on the heels of a belabored explanation about the legal precedent for all the defendants being found guilty of the murders of Galley and Chater, or guilty of accessory before the fact, even if they were not present when the murders occurred. The crown’s counsel acknowledged that he did not need to explain the issue at such length for most present in court that day, but he stated that he made those points so the public could see “the infinite hazard they run by engaging in the wicked combinations” of armed smuggling “and how suddenly and fatally they may...be involved in the guilt of murder itself.”⁴² This warning was especially relevant as one of the men found guilty of accessory before the fact, Richard Mills Sr., believed he was innocent because he was not present at the murder. The state wanted to publicize clearly that entire smuggling gangs were liable for crimes committed by its members.

⁴⁰ *The Whole Proceedings on the Special Commissions*, 19.

⁴¹ *Ibid.*, 14.

⁴² *Ibid.*, 9.

At the beginning of the trial for the murder of William Galley, held directly after the one for Chater's murder, the crown's counsel reiterated his point that smuggling pushed men to commit crimes they otherwise would not have done and that smugglers who did not commit the more heinous crimes were liable for their gang's actions. In fact, he suggested that the guilty parties "would have been shocked, and startled at the very imagination of" committing the crimes of which they stood accused, but "men are so naturally led from one vice to another," that smuggling easily led to violent crimes.⁴³ The Gentleman of Chichester, the anonymous author of *A Full and Genuine History of the Inhuman and Unparalleled Murders* (1749) further reinforced the perception that smuggling was a crime that led men to commit far worse crimes:

It is no Wonder, indeed, that when once a Set of Men commenced Smugglers, that they should go on to commit the vilest Excesses; for when a Man has wrought himself into a firm Persuasion, that it is no Crime to rob his King, or his Country, the Transition is easy to the Belief, that it is no Sin to plunder or destroy his Neighbour; and therefore we need not be much surpriz'd, that so many of the Smugglers have turn'd Highwaymen, Housebreakers, and Incendiaries, of which we have had too many Instances of late.⁴⁴

The seemingly ambiguous morality of smuggling was at the center of these pleas. Commentators throughout the eighteenth century acknowledged that there were significant portions of coastal populations that did not view smuggling as a crime and which depended upon illegal trade as some traditional economies declined. These trials provided an opportunity to renew published critiques of smuggling and the individuals who carried engaged in illicit trade.

The criticisms in the 1740s showed that the elite perception of smuggling, as reflected in print culture, generally remained unchanged, but that the strength and size of the gangs had become more concerning than earlier in the century. The perception and portrayal of smuggling mirrored that of earlier periods in many ways, such as the reappearance of the disease metaphor. As seen in the *Proceedings*, the belief that smuggling was a disease in the populace and that legislation meant to

⁴³ *The Whole Proceedings on the Special Commissions*, 40.

⁴⁴ Gentleman of Chichester, *A Full and Genuine History*, 44.

“cure” the disease had only served to make it worse was still a common conception among middle and upper-class Britons. Even the crown’s counsel believed that government measures had exacerbated the problem, though one counselor suggested that it was a problem found in smugglers, arguing that “the best and wisest measures of government...have been perverted and abused” by illicit traders and the laws that were “intended to be a cure to this disorder, [have] been made the means to increase and heighten the disease.”⁴⁵ Here smuggling reappeared as a social malady, mostly endemic to the coastal population. For the Gentleman of Chichester, it was a spiritual ailment.

In the *Genuine History of the Inhuman and Unparalleled Murders*, there was a recurrent theme of the almost literal inhumanity of the crimes committed against Galley and Chater. Throughout the work the smugglers’ actions were described as cruel and barbarous, as they were elsewhere, but in many places their crimes transcended the characteristics of depraved humans into supernatural enemies of mankind. These characterizations begin in the preface when “the Gentleman” asserted that “of all the monstrous wickednesses with which the age abounds, nothing, I will be bold to say, can parallel the scenes of villainy” committed by the smugglers.⁴⁶ This expanded the idea expressed in the title, that these were the worst crimes committed in Britain, at least in recent history, and that the perpetrators could barely be thought of as human, something even lower than uncivilized barbarians. The Gentleman explicated this conception of the smugglers more fully after the description of Daniel Chater’s torture, which lasted several days, to which the author exclaimed, “who can think on the vile miscreants his tormentors without horror and detestation? Bloody Villains!”⁴⁷ The author even suggested that their crime would be somewhat mitigated, and by implication in some perverse line of logic even justified, if they had simply killed Chater and Galley to prevent testimony against their gang. This would have been in line with the purposive violence of smugglers described by historian Frank

⁴⁵ *Whole Proceedings on the Special Commissions*, 14.

⁴⁶ Gentleman of Chichester, *A Full and Genuine History*, iv.

⁴⁷ *Ibid.*, 31.

McLynn and such crimes had become common enough to be expected by the British public. However, the torture of Chater was something far beyond this, especially to the Gentleman of Chichester who argued that “to torture and destroy a man by inches...with every cruelty that malice itself could suggest; surely this must convince mankind, that some malicious demon had taken possession of your souls, and banish’d every sentiment of humanity from your harden’d hearts.”⁴⁸ To this author, the excesses of the smugglers were no less than the work of the devil, though as mentioned he also thought these were the logical consequences of smuggling. Smuggling as a spiritual failure or disease in mankind were frequent metaphors in the print culture surrounding illicit trade. The Church of Scotland similarly criticized smuggling as a spiritual concern throughout the eighteenth century, with the General Assembly passing Acts in 1719, 1736, and again in 1744, with the latter encouraging ministers to profess the sinfulness of the illegal trade.⁴⁹ The accompanying view of gang violence as an uncontrolled reign of terror on the subjects of southern England had grown in the decades leading to the mid-1740s.

The perception of lawlessness in the coastal regions of Britain, particularly in Kent and Sussex, perhaps reached its apogee in the late 1740s. The accounts of the Galley and Chater murders, Ordinary of Newgate’s Accounts, and newspaper coverage of continued violence created a sense that smugglers controlled the southern coast of England and its inhabitants lived in daily fear for their lives and property. In 1748 newspaper printers and correspondents expressed a common narrative that the pace of smuggling had slowed, but smugglers had become more violent. Commentators suggested these developments were due to the naval presence in the English Channel during the War of the Austrian Succession. As the war was ending, newspaper printers began to report that smugglers were ready to resume illegal trade and prepared new vessels for the task.⁵⁰ Meanwhile gangs continued to act audaciously throughout the kingdom, committing robberies as often as running goods, with one case of

⁴⁸ Gentleman of Chichester, *A Full and Genuine History*, 31.

⁴⁹ Church of Scotland, *The Principal Acts of the General Assembly of the Church of Scotland* (Edinburgh, 1744), 10.

⁵⁰ *General Evening Post*, 21-24 May 1748.

thirty armed men invading the home of a prominent local near Boston in Lincolnshire where the smugglers took the man's wife out of bed, demanded information from her, then "took about forty guineas, and what plate they could find, broke all the windows, chimney glasses, tables, chairs, and whatever else was valuable in the house," before drinking all of the alcohol in the house and riding "triumphantly through the town, bidding defiance to all the country."⁵¹ In addition to the seeming chaotic disorder smuggling gangs produced, some authors implied that the practice of outlawing smugglers contributed to their turn to robbery. For example, one author related a series of robberies near Croydon and Smitham Bottom, south of London, by a group of men "who by all appearance seemed to be smugglers, probably some of those outlaw'd."⁵² On the heels of the formation of the Special Commission, one article revealed this perception of lawlessness most clearly, noting that there were "daily very extraordinary, and almost incredible, stories told of the insolent and cruel behaviour of the smugglers in the counties of Kent and Sussex; in many places laying waste the properties, and threatening the lives of all who oppose them."⁵³ The idea that subjects in the south were living in fear of smugglers was not altogether new, it had been expressed in print before, but with the increasing violence and the publicity of pending trials it carried more weight in the press.

The following week, the editor of the *General Advertiser* included three pieces of news that gave further credence to the belief that the south was overrun with smugglers and that they terrorized the populations of Kent and Sussex, particularly the propertied classes. The printer first noted that a regiment of soldiers was marching to Sussex "to curb the insolence of the smugglers."⁵⁴ Of course, this was a regular occurrence. The government had been employing military regiments against smugglers throughout the century. However, he also reported that the Special Commission against the smugglers

⁵¹ *General Evening Post*, 12-14 Jul 1748.

⁵² *Whitehall Evening Post*, 24-27 Sept. 1748.

⁵³ *General Advertiser*, 30 Dec. 1748.

⁵⁴ *General Advertiser*, 6 Jan. 1749.

who murdered Galley and Chater would commence soon, as the three judges were set to travel from London to Chichester. Lastly, he related that smuggling gangs had reached “such a heighth of villainy, that many private families have sent their money up to London, in order to prevent their being robb’d of it by those miscreants.”⁵⁵ Even with the Special Commission underway and extra troops marching to the Sussex, there was a perception that subjects could not be secure in their property or feel safe from harm at the hands of smugglers. There was even a public fear that the smugglers would be too strong for the military stationed at Chichester and would rescue the smugglers who were on trial for murder. The *Whitehall Evening Post* carried a report that claimed it was “greatly apprehended, that the smugglers in Sussex will endeavor to rescue their brethren,” so ninety additional men marched to Chichester under Lieutenant Bodens to safeguard the proceedings and were ordered “to be ready charged, with double ball, and to fire on any disturbance.”⁵⁶ There was not likely to be any significant attempt to free these smugglers. However, the British reading public perceived smuggling gangs as daring rogues, with strength of numbers, who might attempt it. This conception of illegal traders even pervaded other discussions of criminality, such as a letter printed about the suppression of poaching, which closed with a warning that “when the game is all gone,” the poachers would turn to other crime and do “as the smugglers do now, break into your houses, rob, and destroy you.”⁵⁷ The violence of smuggling gangs had increased, but the accounts of their control of the south were sensationalized. There was both significant resistance in the community and from the military in coastal counties. Regardless, the authors of the accounts of the Galley and Chater murders seized on the publicity of the crimes and sensationalized the power and control smuggling gangs held over terrorized English subjects.

These accounts reveal the extent to which smuggling gangs’ activities had affected public perception of the government’s authority in the region. As noted, national attention was fixated on the

⁵⁵ *General Advertiser*, 6 Jan. 1749.

⁵⁶ *Whitehall Evening Post*, 10-12 Jan. 1749.

⁵⁷ *Whitehall Evening Post*, 4-7 Mar. 1749.

coming trials. Despite this, many Britons expected a violent reaction and possible jailbreak of these notorious criminals. The government's show of force, seen in the military reinforcements, reveals an acknowledgement of the importance of the trials. To some degree, the trials of the smugglers involved in the murders of a crown officer and state's witness were a way to reestablish legitimacy in the south.

In the trials, the crown's counsel suggested that smuggling gangs instilled terror in the government, just as they did to coastal subjects. The counsel used familiar language that had appeared in laws against armed smuggling, such as "numbers of dissolute people assembled together," emphasizing both that smugglers operated "in open day-light," and that they were "the terror of His Majesty's peaceable subjects."⁵⁸ Moreover, these smugglers ignored several potential acts of mercy from the crown and refused to take advantage of the indemnity offered to them. These were outlawed smugglers who could not be reasoned with or swayed by the severity of new laws and the crown's counsel suggested that they had "become almost a terror to the government itself."⁵⁹ Historians do not believe that smuggling ever threatened the political order of eighteenth-century Britain, but these sensationalized perceptions of the smuggling problem suggest that the terror experienced by families who sent their money out of the county was nearly extending to the government, which enacted measures that only seemed to exacerbate the problem. Whether or not the government feared the smugglers beyond their economic impact and ties to foreign threats is debatable. However, the common people certainly understood the gravity of informing on the smuggling gangs after the Galley and Chater murder. Daniel Chater was not the only person who suffered the consequences of turning informant against smugglers of course, as mentioned in earlier chapters, but the sensational coverage of his murder and torture at the hands of the Hawkhurst Gang ensured that people with information either kept silent or were very careful in their cooperation. This sentiment was expressed in court, with the

⁵⁸ *Whole Proceedings on the Special Commissions*, 6.

⁵⁹ *Ibid.*, 14.

crown's counsel suggesting that all those with information on the murders lived in fear as "the terror of this act of cruelty had spread through the country," and everyone dreaded retribution from the smuggling gangs.⁶⁰ As a government witness under the protection of an officer, the murders were a significant attack on the legitimacy of the state in the region.

The Gentleman of Chichester similarly argued that the government had lost control of coastal areas to the smugglers and that residents suffered under a reign of terror. Many accounts in the eighteenth century pointed to the widespread connivance of officials as one of the chief causes of smuggling, which was certainly true, but some either ignored or glossed over that issue to emphasize the strength of the smugglers as the primary concern. Officers and magistrates could not be expected to carry out their official duties in safety, so toleration of smuggling was almost a reasonable alternative. The Gentleman of Chichester expressed this in terms of simple numbers and arms. There were not enough officers to contend with the smuggling gangs. Moreover, he referred to smugglers almost as a paramilitary organization, relating that "they rode in troops" to collect smuggled goods from the shore during the day and "they were not afraid of regular troops, that were sent into the country to keep them in awe."⁶¹ Civil magistrates, if they were bold enough to act against smugglers, were liable to have their property destroyed or even be killed, he suggested. The common people could reasonably expect a death sentence for informing against smugglers, as made clear by the case of Daniel Chater. In short, the Gentleman of Chichester argued that "the smugglers had reign'd a long time uncontroul'd."⁶² There was a common belief, expressed in print culture and supported by historians, that large numbers of the coastal population of Britain engaged in or supported smuggling, but there was a strong counter-narrative that many simply lived in fear. The Gentleman further argued that the murders of Galley, Chater, and others in the 1740s and the implicit warnings against informing "so terrified the people

⁶⁰ *Whole Proceedings on the Special Commissions*, 23.

⁶¹ Gentleman of Chichester, *A Full and Genuine History*, 41.

⁶² *Ibid.*

every where, that scarce any body durst look at them as they pass'd through towns and villages in large bodies in open day-light."⁶³ This sentiment was embedded in English print culture well before smugglers were ever portrayed as honest thieves. It was long lasting as well. Over a century later, Rudyard Kipling expressed the exact idea in a poem called "A Smuggler's Song" which referenced the heyday of smuggling:

If you wake at midnight, and hear a horse's feet,
Don't go drawing back the blind, or looking in the street,
Them that ask no questions isn't told a lie.
Watch the wall my darling while the Gentlemen go by.

Five and twenty ponies,
Trotting through the dark –
Brandy for the Parson, 'Baccy for the Clerk.
Laces for a lady; letters for a spy,
Watch the wall my darling while the Gentlemen go by!⁶⁴

The poem was written as a series of seemingly light-hearted warnings to a girl, ostensibly by a smuggler, not to go snooping into the dealings of illicit traders, suggesting in other verses that the girl ignore any goods she finds hidden away or urging her to turn a blind eye to the people of the town assisting men running goods. In one interpretation, it is the romanticization of smuggling wherein the community is secretly supporting the activities of smugglers and benefiting from their trade, as noted by the brandy and tobacco given to the parson and clerk. In another verse the girl is told to ignore her mother mending a coat that was torn, presumably from some skirmish. However, as seen in the counter-narrative literature of the 1740s and the early histories of smuggling that fought against its romanticization, there was a more sinister tone to be gleaned from the poem. The child was better to watch the wall than to witness an armed gang passing through the town and, in a later verse, she should be careful when speaking to King George's men and better not inform against anyone. The consequences for informing

⁶³ Gentleman of Chichester, *A Full and Genuine History*, 44.

⁶⁴ Rudyard Kipling, "A Smuggler's Song," (1906), www.kiplingsociety.co.uk/poems_smuggler.htm.

against smugglers were often more terrible than the punishments smugglers faced for murdering informants.

The *Genuine History of the Unparalleled Murders* contained some of the first images of English smuggling gangs presented to the British public. For many, the roving groups that dominated parts of Kent, Sussex, and other coastal areas existed only in newspapers, pamphlets, and books. They were villains translated to the printed word, acts of cruelty and barbarism stated succinctly for a newspaper column or sensationalized for lengthier accounts. However, these smugglers were distant, and the reader was left to imagine the criminals for themselves. Now, readers were treated to nine engravings that were the first published representation of smugglers alongside accounts of their horrific deeds. Readers were able to follow the tragic end of William Galley and Daniel Chater through images of their suffering at the hands of the Hawkhurst Gang, adding depth to these sensational accounts. Facing the title page, an image of the beginning of their torment greeted readers, showing Galley and Chater mounted on a horse together (though the written account differs in this regard), bound, and whipped by five members of the gang, who all dressed in coats and cocked hats like their prisoners, though the smugglers were armed with pistols along with their whips. In the next image the victims are shown hanging over the side of their horse, upside down as their bound feet would not allow them to fall to the ground, as the smugglers continue to whip them from their mounts. The following image shows William Galley laid over a horse, having been tortured to a point near death, while the gang members dig a hole by the light of a lantern. Another engraving shows them lowering Galley into the hole and the caption suggested he was still alive.⁶⁵

The next images showed the torture and murder of Daniel Chater, further depicting the brutality of his assailants. One of these engravings revealed Chater's brutal treatment at Richard Mills Sr.'s home, where he was chained to a post in a nearby turf house. In the image several armed men, holding pistols

⁶⁵ Gentleman of Chichester, *A Full and Genuine History*, n.p.

and whips, stand talking and seemingly unconcerned with what was going on behind them. In the background, smugglers kicked Chater and cut him across the face as he knelt in prayer. Another engraving showed smugglers holding Chater above the well where they would eventually throw him, hung by a rope around his waist. Below that, an image showed the “Bloody Smugglers,” throwing large stones down the well to make sure he was dead while two more men are bringing a log and another large stone to continue the brutal work.⁶⁶ The second edition of the *Genuine History*, which included more trials, also included several images of other crimes. There was an engraving of the murder of Richard Hawkins, shown on his back holding his hand up to defend the blows as Richard Rowland and John Mills whip him to death. Other smugglers look on in the background as the man is beaten. Finally, there was a representation of the event that set off the unfortunate tale of Galley and Chater. An image shows a few dozen men breaking down the door of the Custom House at Poole, armed with axes and pistols, with a row of horses in the background waiting to be loaded with the recovered tea.⁶⁷ These images added another element to the sensationalized print culture on the smuggling crisis in the south. The British reading public could now see the barbarity of the smugglers for themselves in addition to reading the accounts reported from the coasts.

The sensational accounts of the Galley and Chater murders joined a growing crime literature that included smuggling, most notably the *Ordinary of Newgate Accounts*. The Ordinary of Newgate was the chaplain for Newgate prison. As chaplain to prisoners, he carried out Christian rites to condemned criminals. The Ordinary of Newgate, as one of the perquisites of his office, had the right to publish and sell the *Ordinary of Newgate Accounts* to supplement his income. The Ordinary interviewed condemned individuals and wrote a brief biography of criminals set to be executed, providing more detailed accounts of smugglers from their point of view. The *Accounts* also were interspersed with many

⁶⁶ *Ibid.*

⁶⁷ Gentleman of Chichester, *A Full and Genuine History*, n.p.

warnings about the dangers of criminal behavior from the Ordinary's religious perspective. Smugglers had not been featured in these frequently until the 1746 law took effect, after which many outlawed smugglers ended their days at the Tyburn gallows and had their final act recorded by the Ordinary of Newgate prison.⁶⁸ In fact, in the 1736 *Account* for the smuggler George Watson, known as Yorkshire George, the Ordinary of Newgate noted that the case was "somewhat extraordinary; in regard to his being the only smuggler that for many years has suffered at Tyburn."⁶⁹ The 1746 statute created outlawed smugglers when men did not turn themselves in after they were proclaimed in the *London Gazette*. This ensured that many more smugglers would be tried at the Old Bailey and executed at Tyburn. These accounts further reveal that the smuggling-related violence of the south was increasingly perceived as a crisis, with government policies partially to blame, and that the southern counties were nearly lawless territories with subjects living in terror under smuggler occupation.

The account of John Cook, a Hawkhurst Gang smuggler, is indicative of the trends found in the *Ordinary's Accounts*, showing that newspaper coverage of the smuggling crisis, especially in Kent and Sussex, had caused significant concern in London and that it was affecting the government's action against them. Furthermore, the *Account* provided some confirmation to readers, from the perspective of a condemned smuggler, that inhabitants of the south indeed lived in terror of the smuggling gangs, despite the similarly pervasive belief that smuggling received overwhelming support from the commonfolk. Cook was indicted with four other smugglers for being armed and assembled to assist in running uncustomed goods in Kent. The Ordinary surmised through conversations with Cook that he was "a man of power in, if not a principal man of the gang."⁷⁰ He gathered this through Cook's claims,

⁶⁸ Tyburn was the location of the gallows, in Westminster, where most criminals sentenced to death in London would be executed.

⁶⁹ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 18 August 2021), *Ordinary of Newgate's Account*, July 1736 (OA17360705).

⁷⁰ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 18 August 2021), *Ordinary of Newgate's Account*, July 1747 (OA17470729).

supported by an officer, that he was able to prevent the gang from killing and torturing officers whom they captured and from sending one to France. Cook expressed that he thought he might receive mercy for interceding on behalf of crown officers, but the Ordinary informed him otherwise. He told Cook that the perception of chaos created by smugglers in the south, “the notorious riots and disorders which have been committed, seem to leave very little room for mercy to be extended to any smuggler; especially such as have been advertised in the publick papers, as common disturbers of the peace of their country.”⁷¹ Smugglers’ notoriety was firmly established in the London press, especially the Hawkhurst Gang. The Ordinary expressed that Cook’s gang was “now pretty famous by the terror they spread in their country,” and this was supported by Cook’s own words.⁷² In private conversations with the Ordinary, Cook apparently admitted that he was “sensible to what a prodigious height of insolence they were grown; so that it was dangerous for any one, stranger or neighbour, if not one of their own stamp, to come near the places where they resorted together.”⁷³ Cook further related that the gang did not care for societal connections. The only order the Hawkhurst Gang cared for was its own. Cook’s *Account* suggests that smuggling gangs of the late 1740s did not foster ties with local populations and widespread community support of such a violent criminal group was unlikely. His *Account* also further reveals that the gangs and local populace often operated in a state of lawlessness, where strength of arms dictated social order.

The *Account* of Samuel Austin, another Hawkhurst smuggler, was consistent with John Cook’s on the belief, even by members of the gang, that the inhabitants of Kent, Sussex, and surrounding territories lived in fear. As the Ordinary related information gleaned from the interviews of condemned men, there were sensationalized details that only added to these perceptions, such as the repeated

⁷¹ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 18 August 2021), *Ordinary of Newgate’s Account*, July 1747 (OA17470729).

⁷² *Ibid.*

⁷³ *Ibid.*

claims about the Hawkhurst Gang being able to assemble huge numbers of men, or as Austin claimed, “three or four hundred persons ready to flock together upon any notice given, or alarm,” though nowhere near this number ever assembled.⁷⁴ Nevertheless, the smugglers regularly gathered in groups that were far too many for almost anyone, except large militias or regular troops, to oppose. Austin acknowledged their impact on the people of the south, saying “they were a terror wherever they came in bodies, being known to be resolved to cut down all opposition,” and the Hawkhurst Gang had “grown so intolerably wicked and troublesome, not only to their near neighbours, but to others that were distant.”⁷⁵ The raid on the Poole Custom House was evidence for that, as Poole was over 125 miles west of Hawkhurst. There certainly were many people who did not perceive smuggling as a crime and actively engaged in the act, supported the smugglers, or casually turned a blind eye and benefited from uncustomed goods, but these accounts added to the existing literature that revealed a culture of fear that smuggling gangs created.

The *Account* of John Cook in the days before his execution related his view that smuggling was no great crime, certainly not a capital offense, and the Ordinary took the opportunity, as many authors had done, to critique Cook’s seemingly common belief. In fact, the Ordinary regularly lamented this perception and included long criticisms of smuggling, sometimes reprinting the same criticism in different *Accounts*, which emphasized the sinfulness of smuggling and further argued that it was worse than many other capital offenses. The Ordinary found through his interviews of condemned smugglers, “especially Cook,” that they “have long been under a strong prepossession, that the crime for which they were condemned was not so heinous in the sight of God, as the punishment was severe by the laws of men.”⁷⁶ The Ordinary was concerned that this was the prevailing belief among the uneducated classes

⁷⁴ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 18 August 2021), *Ordinary of Newgate's Account*, December 1747 (OA17471221).

⁷⁵ *Ibid.*

⁷⁶ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 18 August 2021), *Ordinary of Newgate's Account*, July 1747 (OA17470729).

of Britain. After all, he had highlighted Cook's ignorance of letters and Cook himself suggested he may not have turned to smuggling if he had been properly educated. Thomas Puryour, who was executed at Tyburn later in 1747 alongside fellow Hawkhurst Gang member Thomas Fuller, expressed a similar belief about the criminality of smuggling to the Ordinary, stating "little did he think, when about that business, that ever he should be hanged for it, as it was so common a practice, and a thing so publicly done."⁷⁷ In response to Cook, the Ordinary offered a long criticism that echoed arguments that had been common in the critical discourse on smuggling for the previous century, especially the idea that smuggling was worse than highway robbery, as one affected one man while the other affected hundreds and potentially the entire society through the destruction of important branches of trade. He also pointed to its sinfulness, as revealed in scripture, and the fact that it drained Britain of specie. His criticisms were repeated almost verbatim in the *Account* of Thomas Puryour and Thomas Fuller.⁷⁸ However, the most notable aspect of the *Account*, as well as many others, was the inclusion of the most detailed accounts of smuggling gangs' heinous crimes, sensationalized through the testimonies of condemned smugglers and witnesses to their atrocities.

The violence and crimes of the smugglers in Kent and Sussex have long been the focus of historians, with various disagreements on their typicality. The metropolitan perception of a more lawless south, rather than comparable situations in parts of Suffolk, Norfolk, Cornwall, Bristol, Scotland, Ireland, and elsewhere, has pervaded the literature for centuries. The *Ordinary of Newgate Accounts* further established that perception in the mid-eighteenth century through detailed accounts of violence committed by members of the Hawkhurst Gang as well as consistently emphasizing the state of terror in the south. Wealden smugglers were more likely to end their days at Tyburn than illegal traders from

⁷⁷ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 18 August 2021), *Ordinary of Newgate's Account*, November 1747 (OA17471116).

⁷⁸ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 18 August 2021), *Ordinary of Newgate's Account*, November 1747 (OA17471116).

other regions. Thus, the British public read about smugglers from Kent and Sussex more often than any other region.

The British public, therefore, perceived the Hawkhurst Gang as more desperate and dangerous than other smugglers because they were able to read detailed accounts of their exploits. One example, described in both John Cook's and Arthur Gray's *Accounts*, revealed that there were many other instances of torture and cruelty committed by these gangs that simply did not receive the exposure that the Galley and Chater murders did. The Ordinary related that in December 1744, two members of the Hawkhurst Gang were taken to jail by Officers Quaff, Bolton, Jones, and James. The gang assembled some men, including both John Cook and Arthur Gray (Cook was Gray's servant and gave testimony against his employer during his own trial), then went to the town where the officers were, "and in open day light entered the town with hangers drawn, arm'd with pistols and blunderbusses; they fired several shot to intimidate the neighbourhood," then dragged the officers out of the house where they were drinking together, "tied three of them neck and heels...and carried them off in triumph to Hawkhurst in Kent."⁷⁹ One officer, Quaff, got away in the commotion and the smugglers let Jones go on the road, but warned him not to meddle in their affairs or he would come to the same end as the other two. The Ordinary described their fate as had been published in Cook's *Account*:

They carried the unfortunate Mr. Bolton and James, to a Wood near Hawkhurst, stripped them naked, tyed them to two different Trees near one another, and whipped them in the most barbarous Manner, till the unhappy Men begg'd they would knock them on the Head to put them out of their miseries; but these barbarous Wretches told them, it was time enough to think of Death when they had gone through all their Exercise that they had for them to suffer before they would permit them to go to the D___l. They then kindled a Fire between the two Trees, which almost scorch'd them to Death, and continued them in this Agony for some Hours, till the Wretches were wearied with torturing them; they then releas'd them from the Trees, and carried them quite speechless and almost dead, on Board one of their Ships, from whence they never return'd.⁸⁰

⁷⁹ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 8.0, 18 August 2021), *Ordinary of Newgate's Account*, May 1748 (OA17480511).

⁸⁰ *Ibid.*

The story had nearly all of the elements of the Galley and Chater murders: the Hawkhurst Gang, abduction of an officer, and extended torture of captives. The critical difference was that the smugglers sent them to France. There were no bodies, no tortured remains to captivate and horrify the British reading public. As mentioned before, the Galley and Chater murders were not out of place in the smuggling crisis. The outsized publicity on the matter was due to both the Duke of Richmond's campaign to capture, prosecute, and execute as many of those involved as possible and the connection to the raid on the Poole Custom House, for which smugglers would continue to be tried and executed for a few years.

The Galley and Chater murders were the most infamous crimes of eighteenth-century British smugglers. However, the accounts of their murders joined a broader print culture that sensationalized the smuggling crisis. The *Ordinary of Newgate's Accounts* show that the representation of this crisis as a reign of terror was pervasive in several forms of print media and it had a significant impact on the metropolitan perception of smugglers. The Ordinary even suggested that this view affected smugglers' sentencing at the Old Bailey. Members of the Hawkhurst Gang also believed they instilled terror in England's southeastern communities, some seemed to revel in it and ensure it. There was, of course, an acknowledgement that many of the common people did not view smuggling as the capital crime it had become, but authors in London continued to attack this mindset and highlighted the cruelty and barbarism of the smuggling gangs to show that illegal trade was inherently evil. The violent and depraved crimes described by the Ordinary of Newgate or the Gentleman of Chichester were the inescapable consequences of illicit trade.

Mandrin

British interest in smuggling went well beyond the coasts of Britain itself, though the most pressing interests beyond the home coasts were those from their southern neighbor and perpetual rival, France. Newspaper printers, especially those of publications specializing in foreign news, regularly

updated Britons about the smuggling problems that France faced. France's problems were, of course, very similar to those the authorities and many subjects faced in Britain. Yet, smuggling in France was often shown to be more violent and widespread than in Britain, both because of the exaggerated reports of massive smuggling gangs and the cruel arbitrary power of the French government and the *ferme générale*, or General Farm, a powerful tax farming organization in France. Printers and authors of other media were quick to point out that the French smuggling problem was more significant because of the French government. Authors of economic treatises were also eager to blame France, in part, for Britain's own smuggling problem. France, they contended, would attack Britain's economy in any way it could, and the French needed superior British wool to maintain any quality in their clothing industries. The high taxes on French goods that were ostensibly a protection to home manufactures only provided opportunity for the French to further injure the British government.⁸¹

British depictions of French smuggling often highlighted the role of tax farming in France. Britons believed the Farm was archaic and oppressive, especially since Britain had abandoned its own tax farming systems. Historian Michael Kwass describes the Farm as "a colossus, it dwarfed every other institution in France, public or private, except for the royal army."⁸² The size and power of the organization added to British apprehension about its activities. The Farm, most notably, administered the sale and taxation of certain goods, such as salt and tobacco. The salt tax, or *gabelle*, was perhaps the most loathed tax in France. The Farm earned the ire of the French people through levying the hated tax. The French government also created a monopoly on tobacco and allowed the Farm to oversee its sale

⁸¹ For example, see *A Brief Account of the Woollen Manufactory of England, with Relation to the Prejudice it Receives from the Clandestine Exportation of Wooll from Ireland into France* (London, 1707); Cheshire Weaver[James Digges La Touche], *Anglia Restaurata: or, The Advantages That must accrue to the Nation by Effectually Putting a Stop to the Destable and Ruinous Practice of Smuggling Wool, from England and Ireland, to France, Ostend, &c.* (London, 1727); George Bridges, *Plain Dealing: Or the Whole Method of Wool-Smuggling Clearly Discover'd, and the Weakness of the Laws in Force, put in a clear Light* (London, 1744).

⁸² Michael Kwass, *Contraband: Louis Mandrin and the Making of a Global Underground* (Cambridge, MA: Harvard University Press, 2014), 47.

and taxation. This was, again, a widely despised system. To combat contraband, the Farm employed large numbers of armed guards. Kwass notes that the Farm had 21,188 armed guards in 1774 to patrol for smugglers.⁸³ The privatized military used to police French commerce was, to Britons, emblematic of French despotism.

The perception of the French as foreign antagonists in the domestic fight against smuggling, led many Britons to look on French problems in commerce with glee. Certainly, French smugglers who subverted the will of their own government or who evaded the Farm were not portrayed in the same way that domestic British smugglers were. This was most clear in the extraordinary case of Louis Mandrin, the most famous smuggler in the eighteenth century. Mandrin was the leader of a band of smugglers who engaged in a series of brazen campaigns in southeastern France to sell contraband goods, mostly from Savoy (then a part of the Kingdom of Sardinia) and Switzerland where contrabandists could acquire banned or monopolized goods, such as calicoes and tobacco. Smugglers had long been active in the region, as noted in Chapter 1, taking advantage of the border between Savoy and Dauphiné and the almost complete non-engagement attitude Sardinia held toward smugglers. Mandrin, however, went beyond simple smuggling in political attacks on the Farm that earned him international fame and ultimately led to an audacious cross-border campaign to capture him.⁸⁴

Mandrin's fame largely derived from his methods of smuggling and his apparent military skill in commanding his band of smugglers. Mandrin and his gang would enact forced sales after taking over a marketplace and then provide receipts for the transaction. The receipts Mandrin created were to ensure that the Farm recompensated the individual or entity that incurred the loss of the original sale. These were directed attacks against a generally despised tax farming organization that earned the smuggler a reputation of a French Robin Hood. His band of smugglers would even release prisoners in the towns

⁸³ Kwass, *Contraband*, 48.

⁸⁴ For detailed account of Mandrin's career, fame, and demise, see Kwass, *Contraband*, 117-284.

where they engaged in forced sales. Historian Michael Kwass examines Mandrin in the context of the consumer revolution and the development of a “global underground” that supplied restricted markets. Kwass notes that Mandrin’s act of releasing prisoners “gestured toward an alternative system of justice in which legitimate ‘crime’ (smuggling, counterfeiting, indebtedness, desertion) and illegitimate crime (theft, ‘evildoing’) were to be distinguished.”⁸⁵ Despite Mandrin’s extraordinary smuggling campaign and his political attacks against the powerful Farm, Kwass relates that “very little was written about Mandrin before his death,” and aside from private writings, “no one save the editors of a few foreign newspapers actually published on Mandrin.”⁸⁶ Newspaper printers in London, free from France’s press censorship, were naturally inclined to publish news on the smuggling problem in France and were among the few to publish the exploits of Louis Mandrin before his death.

London newspaper printers began publishing on Mandrin as early as November of 1754 after a smuggling campaign through southeastern France. Kwass notes that Mandrin expanded “the scope of his operation, he tripled the size of his band, attacked major cities (including three provincial capitals, and sold prodigious quantities of contraband over the course of a 600-mile run,” throughout October 1754.⁸⁷ Kwass further states that newspaper correspondents sent word of the sensational stories that launched Mandrin “into the stratosphere of celebrity.”⁸⁸ One of the earliest instances when the London press identified Mandrin came from a forced sale at Bourg-en-Bresse, the capital of Bresse, where the intendant of Burgundy, Bresse, and Bugey, Jean-François Joly de Fleury, happened to be at the time. The report, printed in the *Whitehall Evening Post*, stated that estimates of the smugglers’ force was upwards of 1,000, though they actually numbered just over one hundred men, and that they were “well disciplined stout fellows, and their Chief, the Sieur Mandrin, is reputed to be very able and very brave.”⁸⁹

⁸⁵ Kwass, *Contraband*, 143.

⁸⁶ *Ibid.*, 252.

⁸⁷ *Ibid.*, 139.

⁸⁸ *Ibid.*

⁸⁹ *Whitehall Evening Post*, 7-9 Nov. 1754.

The exaggerated reports of the size of his gang added to his sensationalized grandeur. Then the author explained the gang's signature style of smuggling before relating the events at Bourg:

The Method they take is to leave a Quantity of Goods in a Town and oblige the Inhabitants to pay for them; when any Seizures are made they take the value in ready Money out of the next Custom-House, and give a Receipt in form. A Fortnight ago the Sieur Mandrin levied a Sum of Money from Mr. Joli de Fleury, Intendant of Burgundy; As Mandrin behaved very politely, the Intendant told him he was sorry to see him in such a State of Life; upon which he shrugged up his Shoulders, and told him it was the natural Effects of high Duties; and that having failed in others they had recourse to the only Trade in which Men could live.⁹⁰

Mandrin's reputation in Britain began as the honest thief that Charles Lamb later saw as the archetypal smuggler. Here he was described to readers as an able commander, keeping a military style discipline among smugglers who, in the British experience, were the lowest members of society. He was shown respect in the honorific "Sieur" and noted for admirable qualities of bravery and decorum when interacting with a high-ranking official of a powerful kingdom that wanted him executed. In fact, at that time he already had a death sentence, issued by the parlement of Grenoble, for a double murder.⁹¹ He was regularly portrayed of having such charm that his very serious crimes became less important in newspapers and other media than his personality and ability. The printer of the *Whitehall Evening Post* even decided to include Mandrin's own defense for his actions, that high duties naturally led to smuggling, suggesting that the actions of the gang were highly reasonable given the circumstances. This, of course, was regularly argued in many criticisms of British government policy by authors and politicians who believed high taxes inevitably led to illegal trade. The somewhat gentle reception by the intendant of Burgundy that appeared in the report is also supported by further evidence, showing that Mandrin's conduct was as disarming as described. In fact, Kwass argues that "there is strong evidence that the intendant sympathized to some degree with Mandrin and was sincerely concerned about his fate," even going as far as seeking a pardon for the smuggler's crimes.⁹²

⁹⁰ *Whitehall Evening Post*, 7-9 Nov. 1754.

⁹¹ Kwass, *Contraband*, 79.

⁹² *Ibid.*, 144.

Not every report was as glowing as that found in the *Whitehall Evening Post*, but most had a generally positive portrayal of the smuggler captain. The printer of the *London Evening Post*, for instance, dedicated an entire column to the forced sale at Bourg, detailing the crime in great detail while being less effusive about Mandrin's behavior than the *Whitehall Evening Post*, though still complementary in areas. He first noted that the military was being sent to Lyons and Burgundy in response to Mandrin's smugglers who "daily commit the most daring depredations and insults."⁹³ The printer also included details about the gang seizing the wife of the Farm agent whom they originally intended to force their tobacco upon, after the agent left her behind when hearing word of the approaching smugglers. These were details that emphasized the criminal and rogue elements of the gang that more positive accounts omitted. Overall, the piece in the *London Evening Post* was much closer to the actual events, as detailed by Kwass, but it had its own embellishments and omissions.⁹⁴ The printer still managed to show Mandrin as a relatively honorable leader of a gang of smugglers. Mandrin's introduction in the *London Evening Post* described the smuggler as "their Chief, whose name is Mandrin, and is said to be reformed Captain of Horse," and when the Farm agent's wife was brought before him, Mandrin "finding the Lady could not possibly answer the demand [payment], order'd her to be released."⁹⁵ He was immediately more just and reasoned than common smugglers and was inferred to have a military background because of the way he carried himself and the way he led his gang of smugglers, even having a military-style hierarchy for his men.

There were subtle nods to Mandrin's respectable conduct throughout the article, with emphasis on his boldness. When Mandrin heard that Joly de Fleury was in the city, the smuggler took his band there and told the intendant's servants (Joly de Fleury had barricaded himself away) that "he wanted to speak a word with the intendant," and afterwards when Joly de Fleury had sent two offers to speak with

⁹³ *London Evening Post*, 9-12 Nov. 1754.

⁹⁴ Kwass, *Contraband*, 140-142.

⁹⁵ *London Evening Post*, 9-12 Nov. 1754.

him, Mandrin “received them very politely at the head of his band, told them he was very sorry that he had disturbed so honourable a company.”⁹⁶ Rather than framing the situation in terms that would accurately reflect what was happening, that is, a show of force to demand payment from his enemies, Mandrin was shown to use polite speech even during what amounted to an armed robbery. Instead of demanding money from the intendant forcefully, which was in fact what he was doing, he complemented the town, calling Bourg “a pretty opulent town,” and as such he would offload tobacco worth 20,000 livres and he “desired the intendant to send him the money directly, because he had no time to lose.”⁹⁷ The implication of his little speech was that Bourg could bear that expense. As always, Mandrin provided a receipt for the sale and the correspondent for the *London Evening Post* related that the smuggler captain also told those present that he would lower the price of the tobacco once his gang had been reimbursed by the General Farm for any seizures made on their goods. Then, he continued, the subjects of southeastern France would have one of their consistent grievances, that is, the high price of tobacco, alleviated. Even in the presence of Joly de Fleury and during his most daring operation to that time, Mandrin was framing himself as a man of the people who was acting against corruption rather than in self-interest; the printers of English newspapers passed that same message and characterization on to their readers.⁹⁸

The *London Evening Post* news report continued detailing Mandrin’s exploits at Bourg, including an alleged request of an additional 3,000 livres for the tobacco, and his selective release of prisoners from local jails, something that factored heavily into Kwass’s examination of Mandrin’s moral economy. For contemporary readers in Britain, this would have put Mandrin in starker contrast to many of its own famous smugglers from previous decades, especially the infamous gangs of Kent and Sussex. The account from Bourg noted that Mandrin went to the jail “and released eleven men that were detained

⁹⁶ *London Evening Post*, 9-12 Nov. 1754.

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*

for smuggling,” but he also “found therein four robbers, but would not enlarge them, saying, that he did not protect such fellows; nay, he even wrote their commitment afresh with his own hand.”⁹⁹ Kwass notes that this showed progression in Mandrin’s moral economy, as he had indiscriminately “freed all of the prisoners from jail, including seven smugglers, three thieves, and one murderer,” on a previous expedition.¹⁰⁰ Mandrin’s decision to leave thieves imprisoned at Bourg further separated him from his English smuggler counterparts. He distinguished legitimate from illegitimate crime by his actions, unlike English smuggling gangs that turned to highway robbery in the 1740s. However, the printer reminded readers that despite Mandrin’s supposed alliance with the people of France against the General Farm and his seemingly good deeds, he was still the head of a large gang, overestimated at up to 4,000 men, “all desperate fellows, and extremely well armed, and perhaps well disciplined, as their Commander has served in the Army.”¹⁰¹

These articles marked the dramatic entrance of Mandrin on the international stage for the British reading public. He joined the ranks of notorious smugglers and surpassed them in prestige and intrigue. He became the face of the smuggling problem in southeastern France, which had been a common feature of British newspapers for decades by then, and he served as a counterpoint in some ways to the smuggling crisis in Britain. British smuggling was portrayed as theft from the king and from his subjects; Mandrin set the Farm as his target because many in France saw it as a corrupt entity that siphoned the taxes of the people into the pockets of wealthy financiers and deprived the king and his subjects of revenue. The French people’s enmity for the institution eventually led to the execution of the Farmers General in 1794.¹⁰² The British already had a complicated relationship with smuggling, but it

⁹⁹ *London Evening Post*, 9-12 Nov. 1754.

¹⁰⁰ Kwass, *Contraband*, 142; Kwass also shows that the jail break was more nuanced than eleven smugglers released and four robbers detained, rather he released ‘four smugglers, two counterfeiterers, a deserter, a debtor, and two men whose charges are unknown’ while he left the thieves as stated.

¹⁰¹ *London Evening Post*, 9-12 Nov. 1754.

¹⁰² Eugene N. White, “From Privatized to Government-Administered Tax Collection: Tax Farming in Eighteenth-Century France,” *Economic History Review* 57, no. 4 (Nov. 2004): 636.

was much easier to publicly tolerate or even support when smugglers diminished the revenue of a rival empire. Mandrin was a scourge to the French government, so naturally many Britons would have been more willing to portray or view him in a positive light.

However, Mandrin was still a violent criminal and newspaper printers in London were not yet willing to exclusively paint him as an honorable hero, especially since he actively worked on that image for himself. Later that month, a correspondent in France sent word of Mandrin's continued exploits in his extraordinary campaign after Bourg and some of the evening presses of London printed a counterview to the heroic image of the captain of the smugglers. An article printed in at least three newspapers offered readers a less favorable image of Mandrin and his gang, almost mocking his supposed grandeur and reframing the gang's acts as the crimes that they were in the view of the French government and the General Farm, rather than the political acts that Mandrin attempted to portray:

The Gang of Smugglers in the Southern Parts of the Kingdom grow every Day more formidable than other. They go from City to City terrifying People, and forcing them to take their Merchandize, and to give them for it the Price which they think fit to set upon it. They pretend to great Probity, and even Generosity, in the Business which they follow. They have at their Head a Man called Mandrin, whom they blindly obey. This Chief gives Titles to those who distinguish themselves by daring Actions. It's said, that he even carries his Extravagancies to such a Pitch, as to have instituted an Order of Knighthood, and gives the Ensigns as a Reward to Bravery.¹⁰³

Rather than a Robin Hood figure, Mandrin and his gang more resemble the smuggling gangs of England who terrorized the southern coast. In this view, officials acquiesced and local populations expressed support for the smugglers out of fear, rather than collusion or widespread positive attitudes toward smuggling and shared distaste of the tax farmers. Here Mandrin was shown to be at the head of a violent gang and instead of attacking the General Farm he was hurting the people and his supposed morality was simply a delusion. His actions, in contrast to previous reports, were implied to be disingenuous and aspects of his capacity for command were portrayed as something closer to a

¹⁰³ *London Evening Post*, 26-28 Nov. 1754. Also printed in *Whitehall Evening Post*, 26-28 Nov. 1754; *Read's Weekly Journal Or British Gazetteer*, 30 Nov. 1754.

proclivity for self-aggrandizement. Mandrin reportedly organized his band like a small military, including ranks for his smugglers, but this report suggested that “his extravagancies” had become absurd. Nevertheless, the author of this piece could not help but include one of the many outrageous tales that contributed to Mandrin’s instant international fame and lasting legend, one that made him seem like the clever and bold outlaw that had authorities and spectators in awe. After writing the relatively harsh critique of the man and his gang, the author related an account wherein Mandrin presented himself to a nobleman who had offered a large reward for the smuggler, dead or alive. Mandrin informed the nobleman that he had brought the smuggler’s head. The smuggler captain then revealed himself as Mandrin and demanded the reward which was offered. The nobleman apparently knew better than to resist Mandrin and paid the reward.

The hunt for Mandrin escalated after his band carried out a violent incursion into France from Savoy in December 1754, leading authorities to disarm commoners, engage in espionage, and increase border security in the southeast.¹⁰⁴ The smugglers stayed out of France as French troops tracked their location and waited for them to cross the border. The smugglers were effectively trapped in Savoy and Switzerland, unable to move in full force, though smuggling continued through small groups and individuals. Small skirmishes occurred, but nothing like the pitched battles many expected. Throughout the early months of 1755 Mandrin’s legend grew even as he had to tread water while French authorities tried to eliminate the smuggling threat.

Newspaper correspondents and printers focused heavily on measures taken by the French government to catch Mandrin as well as the smuggler’s methods and actions in response. Smugglers continued to carry their goods under the nose of the General Farm. One author noted the various locations smugglers used in foreign territories, such as Carouge and Neuchâtel in Switzerland before crossing into France and splitting into smaller groups to take goods to “Dauphiny, the Lyoneze, and

¹⁰⁴ Kwass, *Contraband*, 197-199.

Auverzeze, and others into Franche-County, Burgundy, and Champagne.”¹⁰⁵ Naturally, there was a great deal of difficulty in determining the movements and activities of smugglers, even those who operated as openly and brazenly as Mandrin’s gang. However, British correspondents in France tried to fill the void of concrete information any way they could, often through speculative stories that came from rumors or were fabricated to continue to serve a Mandrin-hungry reading public. In London, printers variously reported that the smugglers were falling out from fear that Mandrin would betray them, that Mandrin retired and gave separate commands to his lieutenants, and that Mandrin was killed by one of his officers.¹⁰⁶

There were opportunities for real news on Mandrin and his smugglers, of course, and printers were quick to update their readers on any developments. Throughout all of it, Mandrin was repeatedly portrayed as intelligent, brave, honorable, and a highly competent leader despite his predilection for violent crime. Negative portrayals of Mandrin seemed to virtually disappear in the London press. In an article discussing Mandrin’s base of operations, referenced above, his general movements in foreign territories and the spread of his contraband into France were followed by a paragraph detailing his many admirable qualities. The correspondent noted that “smugglers behave very orderly in our country and in the Swiss territories, Mandrin taking care to make them observe the strictest discipline,” even though he was actually responsible for illegal violence against French officers and soldiers. More than his capabilities, Mandrin was described as an extraordinary man both physically and in his character:

This Mandrin is very well known in Savoy, and in his native County, Dauphiny: He is about 36 Years old, of a comely Countenance, tall, well set, robust, and very nimble: To these bodily Endowments he joins a quick Wit and sound Judgment, a free and polite Carriage, a mild Temper, but quick at resenting an Offence, an Intrepidity capable of any Undertaking, with an admirable Coolness and Presence of Mind in Time of Danger; so temperate and sober, that Wine never overcame his Reason; so patient and indefatigable, that he would venture upon any desperate Attempt, and go through any Hardships to gratify his Ambition: In short, he seems to have wanted nothing but Opportunity, and a Post suited to his Talents, to make a figure in the

¹⁰⁵ *London Evening Post*, 31 Dec. 1754 – 2 Jan. 1755.

¹⁰⁶ *Whitehall Evening Post*, 2-4 Jan. 1755; *London Evening Post*, 11-14 Jan. 1755; *London Evening Post*, 5-8 Apr. 1755.

World and be honourably talk'd of. But he is become what he is, by a Series of Adventures, which we have not Time nor Room to relate.¹⁰⁷

There was little actual detail of Mandrin's crimes in the extensive news item dedicated to the smuggler, who was then described as the "Captain General of the Smugglers." There was only the brief mention that "the smugglers continue their traffick," and that there was an "incursion" into France.¹⁰⁸ The author contended that Mandrin was essentially a great man who was capable of incredible feats. The author minimized Mandrin's role as a criminal kingpin, which he became through "a series of adventures," but the author suggested there was no time to relate them. Mandrin was further differentiated from English smugglers by his supposed temperance, while his counterparts in England were typically shown to drink to excess, much to their detriment. Mandrin's character was generally more important than his deeds in the English press, at least when those deeds did not reinforce his image as a hero against the General Farm and French government. He was depicted as a respectable commander who happened to be on the wrong side of the law in his crusade.

English newspapers were not the only ones following Mandrin and his exploits. Kwass examines several continental publications and reveals how they painted Mandrin and his smugglers as heroes and villains, depending on the situation and the writer's perspective. For example, Kwass shows that "the *Courrier d'Avignon* and the *Gazette d'Utrecht* belittled Mandrin's clash with the army," in December 1754, but that the *Gazette d'Amsterdam* and *Mercure historique et politique* embellished "the smuggler's martial prowess."¹⁰⁹ Kwass notes that editors who characterized Mandrin favorably still showed respect for French officers, but that "the smugglers were painted as especially brave and stalwart," as their tactics and actions were exaggerated and praised.¹¹⁰ The editor of the *London Evening Post* did much the same in its coverage of events, claiming that Mandrin's men "performed wonders," in

¹⁰⁷ *London Evening Post*, 31 Dec. 1754 – 2 Jan. 1755.

¹⁰⁸ *Ibid.*

¹⁰⁹ Kwass, *Contraband*, 194.

¹¹⁰ *Ibid.*

a military engagement with French troops, reportedly outnumbered 800 to 90, which Kwass called “a gross exaggeration” when the same figure appeared in the *Gazette d’Amsterdam*.¹¹¹

Kwass contends that some newspaper editors and correspondents changed their portrayals of Mandrin after the increasing violence of his later campaigns, specifically noting that the *Gazette d’Utrecht* “soured on Mandrin after Le Puy,” where the gang had violently battled Farm guards, and afterward the newspaper “redoubled its efforts to discredit the chief and expose him as a criminal scoundrel.”¹¹² However, this trend did not appear in the London press. Mandrin was stereotypically a bold and able leader, his men seemed to perform miracles on the battlefield, and authorities were unable to stop him. Some papers, however, featured stories that suggested that the activities of the smugglers had undermined French authority, but they did not attack Mandrin specifically. The editor of the *Public Advertiser* suggested that Mandrin was changing all of France, as it was previously “one of the best policed states,” but had been overcome with “more scenes of licentiousness, cruelty, and dissoluteness than any other.”¹¹³ He further suggested that Mandrin had inspired criminals across France who were forming their own gangs “under the names of Mandrins and smugglers,” and they “render France no longer the same kingdom.”¹¹⁴ Mandrin’s influence was such that, according to the *Public Advertiser*, he was a rallying cry of the criminal underworld and was a threat to the order of a kingdom characterized by effective absolute rule. Mandrin’s name alone was enough, according to another article, to send officers fleeing for safety as was reported when a man claimed to be the famed smuggler to five officers who tried to search his bags.¹¹⁵

The Mandrin found on the pages of English newspapers was a larger-than-life character and mostly portrayed as a principled hero to French commoners. Newspaper printers and various authors

¹¹¹ *London Evening Post*, 21-23 Jan. 1755; Kwass, *Contraband*, 194.

¹¹² Kwass, *Contraband*, 193.

¹¹³ *Public Advertiser*, 31 Jan. 1755.

¹¹⁴ *Ibid.*

¹¹⁵ *Public Advertiser*, 12 Feb. 1755.

had placed significant blame on France for Britain's own smuggling problem, especially regarding wool smuggling, so it was no surprise that France's venerable smuggler was met with general approval across the English Channel. Mandrin was an able strategist, an affable gentleman, and an honest thief to the British reading public. The already legendary figure became cemented as the greatest smuggler of the age not by his continued success in illicit trade, but by his capture and execution.

Louis Mandrin, so-called Captain General of the Smugglers, was captured while he was sleeping in the early morning hours of May 11, 1755, by a large detachment of French soldiers disguised as peasants. The men were disguised because the operation to kidnap Mandrin took place on foreign soil, in Savoy in the Kingdom of Sardinia. It was a blatant violation of international law, or the Law of Nations as it was described, and an insult to the sovereignty to the King of Sardinia, Charles Emmanuel III. The plot to kidnap Mandrin in Savoy was planned in secret by several high-ranking French officials with the goal of giving the French government a degree of deniability to avoid political repercussions. The kidnapping was a response to an assassination of a Farm agent, Pierre Robert Le Roux de La Motte, on April 8, by one of Mandrin's captains who was known as the Piedmontese. The French government's actions were so quick that Mandrin was captured, transported to a commission in Valence, tried and executed within fifty days of the assassination. In fact, news of the assassination, and Mandrin denying involvement, only appeared a few days before Mandrin would be executed on May 26, 1755, by the brutal method of being broken on the wheel.

Mandrin was already a legendary figure, but his death made him into a martyr for British readers who despised the arbitrary government of France and the oppressive General Farm. His elevated status was only emphasized by the illegal and dramatic circumstances of his capture, the arbitrary and brutal nature of his trial and execution, and his reported composure throughout the entire process. There were early false reports of his capture taking place in Forez, but it soon became clear that

French forces had illegally kidnapped Mandrin in Savoy.¹¹⁶ Reports surfaced on the outrage from Turin, the seat of government for the Kingdom of Sardinia, and there were a number of false reports that Mandrin had been broken on the wheel on May 17, but by the time these erroneous details were reported the execution had already taken place.¹¹⁷ Newspaper printers jumped at the opportunity to provide further news of the great Mandrin and they emphasized his poise and resolve in the face of imminent death. The behavior of criminals before execution fascinated readers and had become a key element of crime literature through the *Ordinary of Newgate Accounts*. Would the condemned repent and go to his death solemnly, or would he curse God and the government at the gallows? Needless to say, an international audience eagerly awaited details of Mandrin's final moments.

The *London Evening Post* carried a report that noted the news of his execution in the *London Gazette* was premature, as he was still in jail several days after, and that Mandrin behaved "with great firmness and courage," and responded to interrogation questions "with great precision."¹¹⁸ There was also a story that Mandrin, upon being captured, claimed that he was the famed smuggler "who hath been the subject of so much talk, but not the author of so much mischief."¹¹⁹ The London press was willing to show the self-described version of Mandrin—the man of the people against tyranny—as opposed to the villain that French authorities described. The article in the *Public Advertiser* also included a letter that was allegedly written by the Piedmontese to another captain, Manoc, which described Mandrin's capture and obviously painted him in a positive light.¹²⁰ Newspaper printers let these smugglers speak for themselves and determine, to a degree, their portrayal to the wider world. Most of all, however, the London press seized on Mandrin's fortitude in his final days. It was a pivotal moment

¹¹⁶ *London Evening Post*, 24-27 May 1755; *Read's Weekly Journal, Or British Gazetteer*, 31 May 1755; *London Evening Post*, 29-31 May 1755.

¹¹⁷ *London Evening Post*, 5-7 Jun. 1755; *Public Advertiser*, 4 Jun. 1755; *Whitehall Evening Post*, 5-7 Jun. 1755.

¹¹⁸ *London Evening Post*, 7-10 Jun. 1755; *Public Advertiser*, 10 Jun. 1755.

¹¹⁹ *Ibid.*

¹²⁰ *Public Advertiser*, 10 Jun. 1755.

where his legendary image could be cemented or undone. By extension, the British conception of the honest smuggler and criminal hero could have been tarnished if Mandrin cowered to authorities, renounced his actions, or turned on his followers. However, he was resolute under government pressure while undergoing torture in the face of imminent death.

News of Mandrin's trial, behavior, and life was carried to London in letters from Valence, France as he spent his final days in French custody. The smuggler was tried by a Valence commission that was specially set up to try smugglers and was feared as a particularly bloody court.¹²¹ The news of his death sentence came in a long letter that was printed in at least three major newspapers.¹²² The author of the letter provided scant details of the trial, only noting that the president of the commission of Valence, Gaspard Levet, referred to the accused as "Monsieur Mandrin," and the smuggler answered the judge's questions "with a very cheerful and confident air."¹²³ When confronted with former associates and a servant who had given evidence against him in trials of their own, Mandrin did not respond, though said that the word of a servant should not weigh heavily in a trial. The author suggested that the death sentences meted out to his associates "made some impression on Mandrin, especially when they were delivered to the executioner," though he quickly eased himself with drink.¹²⁴ Mandrin continually had other associates brought before him, those who had given evidence against him in their own trials or under torture, but the author of the letter related that he refused to speak ill of his men, "insisting, that honour required this of him."¹²⁵ Mandrin had always been described as a man of honor throughout his criminal ventures and was shown to maintain his poise under the stress of his likely impending execution.

¹²¹ For more on commission of Valence and French criminal justice concerning smugglers, see Kwass, *Contraband*, 217-235.

¹²² *London Evening Post*, 12-14 Jun. 1755; *Public Advertiser*, 13 Jun. 1755; *Whitehall Evening Post*, 12-14 Jun. 1755.

¹²³ *London Evening Post*, 12-14 Jun. 1755.

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

The news of Mandrin's trial and sentence was important because it was printed in several newspapers, making it the widest read perspective for the British reading public than any other. The author notably expressed doubt about the great smuggler. The London press had rarely printed anything negative about Mandrin despite his criminal exploits, but this author suggested that his bravado would crumble and his character would be brought low by the power of the French authorities. The author remarked that it was generally thought in Valence that the torture he was to undergo as a part of his sentence would "make him change his tone," and further that many assumed that "his swaggering, and pretended greatness of soul, will be followed by a perfect resignation (which is to be wished) or else by a horrible despair."¹²⁶ Interestingly, the printer of the *Whitehall Evening Post* cut this excerpt from the letter. Mandrin, the Chief of the Smugglers, the Robin Hood of southeastern France who robbed from the Farm to give to the people, was to be executed and some believed that the façade of the honorable leader and criminal hero would wash away from fear of the state or fear of God. Nevertheless, Mandrin was reported to suffer his fate with his characteristic dignity.

On May 26, 1755, Louis Mandrin was broken on the wheel in Valence and then strangled in a show of mercy by Levet. Contrary to the previous letter writer's expectations or wishes, the *London Evening Post* reported that he "ended his days on the 26th past, with all the firmness and intrepidity for which he was admired during his life."¹²⁷ Mandrin confessed to a priest whom he admired, the Jesuit Father Gasparini. His confession was presented as a positive change, as it was previously reported that he had sent away several priests. Father Gasparini absolved the smuggler and said that he could not go to the place of execution because he would weep upon seeing Mandrin's tears. However, it was reported that "Mandrin assured him he would not shed one; and kept his word."¹²⁸ The author of the report further emphasized Mandrin's stoicism, noting that the crowd was astonished when "he heard

¹²⁶ *London Evening Post*, 12-14 Jun. 1755.

¹²⁷ *London Evening Post*, 17-19 Jun. 1755.

¹²⁸ *Ibid.*

without any emotion,” his death sentence once again just before it was carried out.¹²⁹ Despite doubts about Mandrin’s fortitude, reports indicated that he did not despair before the house of God. Mandrin apologized to spiritual leaders for his callous attitude when he arrived in custody, performed the *Amende honorable* then went barefooted in his penitence garb “up the scaffold with great boldness.”¹³⁰ He then called for young men to see his execution as a warning against a life of crime and apologized to the officers against whom his gang had committed great crimes. The executioner then broke his bones with an iron rod. It was further reported that in addition to Levet, “the Bishop, and all the persons of distinction at Valence,” had interceded on Mandrin’s behalf “to mitigate his punishment.”¹³¹ Mandrin seemingly made a distinct impression on almost everyone with whom he spoke. The great terror of the General Farm and French government received mercy and the executioner strangled him to end his pain.

Mandrin’s legendary image was solidified and magnified by his behavior leading to his execution. The printer of the *London Evening Post* published another letter from Valence a few weeks after the report on his execution, which further reveals the contemporary fascination with the smuggler and emphasizes the duality of British conceptions of smuggling. The letter also reveals the way that Mandrin’s death had transformed the smuggler’s image in France and, through representations transmitted in letters to the foreign press, in Britain as well. Its opening shows the changing conception of the smuggler:

The greatest Wonder of this Place, and of all France, is the Fortitude of Mandrin. France was once famous for Liberty; the very Name of the Nation (Francks) signified Freedom. But now the Spirit of Liberty seems only to exist in Mandrin’s remaining Followers; he himself was the last great Martyr to Liberty, and suffered with as much Resolution as Mutius Scaevola, but met with the Magnanimity of a Porsena. I saw this Wonder of a man carried to Execution, with an erected Countenance, and decent Firmness, as one who well knew the last and great Part he had to act.¹³²

¹²⁹ *London Evening Post*, 17-19 Jun. 1755.

¹³⁰ *Ibid.*

¹³¹ *Ibid.*

¹³² *London Evening Post*, 10-12 Jul. 1755.

Mandrin was depicted as a hero to the British reading public. He was a symbol of resistance to Britain's hated rival. The French smuggler was also shown in stark contrast to British smugglers in print.

Smugglers could be, in Mandrin's case, honest and admirable men.

Mandrin was put to torture to reveal his co-conspirators in his smuggling ventures, but as the previous reports noted he never spoke against any of his men or revealed any connections he had to merchants or agents in France. In one letter, which covered well over a column of the *London Evening Post*, an author thoroughly detailed his interrogation, suggesting that he was given over to Farm agents who put him on the rack to uncover information about his smuggling network. The interrogators asked who led Mandrin to smuggle and assisted his crimes. Mandrin then "named the Farmer-General, and several others of the Revenue" which surprised and excited the interrogators who expected there were agents of the Farm who were complicit with the smugglers.¹³³ However, Mandrin revealed in further answers what he meant by his comments, further stating that "they prevailed with the King to lay too high duties, and that the great sums to be gained by smuggling, were the causes that excited him and others, and supported them also."¹³⁴ Farm agents tortured him further but he would not reveal any accomplices, so they implored him to tell them the best way to stop future smuggling gangs, to which he gave the answer of smugglers and economic writers alike:

He was not so childish as to hope, that the Farmers, who racked and tortured so many Millions of laborious, honest Frenchmen, who never injured them, but only through Poverty could not pay their Exactions, would spare him, who had resisted their Tyranny; but that, out of Duty to the King, he would tell them the chiefest Measures to prevent Smugglers carrying on that Trade for the future, but he feared they would not let the King or Ministry know it: They pressing him to tell, he said, It was to lower the Duties proportionable to the Bulk of Commodities. He justified the contraband Trade, or Profession, of a French Smuggler; that it was letting the Poor have Necessaries, which the Oppressions of the Farmers debarred them of; that France was a Christian Kingdom, and the Farmers had no Right to take the People's money from them, having neither their Consent, nor that of the Estates. He quoted many old Lawyers and Historians (being a good Scholar) particularly Hotman and Philip de Commenes.—That the Duties and

¹³³ *London Evening Post*, 10-12 Jul. 1755.

¹³⁴ *Ibid.*

Burdens on Salt and other Necessaries were so high, that it is the Interest of every poor Man in France to help to conceal the Smugglers; and though they should torture him, and a thousand more to Death, yet, as long as the Gabels were so high, that Men could get twenty Livres a Day by Smuggling, and but half a Livre in fighting for the King, that the same contempt of Death for Gain, which makes a Grenadier storm a Breach, would make new Smugglers, as long as there were bold Men, who wanted bread in France.¹³⁵

It was perhaps the most powerful explanation and defense of smuggling that British newspaper readers encountered. Purportedly the words of the greatest smuggler of the age, it was an astonishingly similar critique of high taxes as commonly appeared in opposition newspapers, including the *London Evening Post*, for decades. The Farmers were depicted as villainous oppressors against the poor, enabled to torture and kill transgressors, and were guilty of theft against those with no recourse to stop them. The similarities to British portrayals of smuggling were striking in some ways, such as the deference to the king while criticizing his agents and their policies. There was also the argument that smuggling would never end until duties were lowered, a consistent feature of economic literature in Britain. There were enough similarities for British readers to see the parallels between their own smugglers and Mandrin. However, the French situation allowed Britons an alternate conception based on important distinctions in the two systems, especially as emphasized by their portrayal in print after Mandrin's death. British authors portrayed France as having an arbitrary government and the Farmers General as a tyrannical institution within that unfair system. Mandrin was shown to have due deference to the monarch, but he rather focused his assault on the tax farmers. The General Farm was a hated institution in France and was similarly reviled in Britain. Excise and Customs officers were distrusted and disliked throughout Britain, but they were the king's officers. The private nature of the great tax collecting agency in France was portrayed as naturally evil and corrupt. It was a legitimate target for popular frustrations concerning high taxes and royal monopolies. British printers, authors, and readers could support Mandrin's crimes and character while detesting their own smugglers. Mandrin's crimes were mostly portrayed as

¹³⁵ *London Evening Post*, 10-12 Jul. 1755.

justifiable acts against perceived enemies to the French people. British smugglers were depicted as murderous thieves who threatened to destroy British economy.

These dual conceptions were based, in part, on the British desire to dominate the European balance of power and trade. Just as Britons had largely ignored British smuggling into Spanish America because it was favorable to them, many were happy to see the French struggle with Mandrin's smugglers. British support was seemingly justified because of Mandrin's moral economy, which further demonized French institutions that Britons despised. French Catholicism and its role in the justice system, especially in the rituals of execution, were also disparaged in the coverage on Mandrin. The author of a letter printed in the *London Evening Post* noted that Mandrin's captors "repeated his torments with the barbarity of popish laws," because of the "superstition" that required a confession before execution.¹³⁶ The French government and the General Farm similarly were portrayed as employing arbitrary power contrary to the Law of Nations and responsible governance. The author of the letter closed by stating "the Farmers have certainly carried this affair too far," and further argued that the kidnapping of Mandrin was "a very extraordinary step," which showed that France acted as a "universal empire," even as all of Europe began to move against its encroachments.¹³⁷

A book about Mandrin joined newspaper coverage of Mandrin to spread the accounts of the famed smuggler to the anglophone world. The book, translated from an original French version, was republished in several editions. The first editions appeared before British newspapers had confirmed Mandrin's death, though several had prematurely reported on it, and his execution only appeared in later editions.¹³⁸ Kwass describes a battle in France between two narratives: the royal narrative of Mandrin as villain and a counter-narrative of Mandrin as a heroic figure.¹³⁹ However, the battle in the

¹³⁶ *London Evening Post*, 10-12 Jul. 1755.

¹³⁷ *Ibid.*

¹³⁸ A second edition added "Together with a particular Account of his behaviour at the Place of Execution; and his great Resolution and Intrepidity thereon" to the extended title.

¹³⁹ See Kwass, *Contraband*, 252-284.

English press was much more one sided. This book, *Authentic Memoirs of the Remarkable Life and Surprising Exploits of Mandrin*, reveals the overall portrayal of Mandrin in English. The tract begins with an aggressive condemnation of smuggling, showing that Mandrin's actions were immoral at their core, despite the honorable conduct of the captain of the smugglers. In fact, it extended the arguments put forth by authors in the previous decade that suggested that smuggling naturally led to far worse crimes:

That Smuggling is the Original of many other Vices and Enormities, besides those which affect Trade, is evident from the atrocious Villainies perpetrated by the Wretches who follow this illicit and clandestine Practice. They are, in Truth, the declared Enemies of their Country, Violators of the Laws of Society, and in Combination against common Honesty and Justice.¹⁴⁰

However, the author immediately noted that the system of France was somewhat different than Britain's due to the tax farming methods employed and he suggested that "the Farmers are more rigorous and oppressive in their methods of collecting these imposts," than countries with crown officers carrying out that duty.¹⁴¹ The author even declared that "the people would rather have rejoiced at, than pitted these gentlemen for the depredations that have been made upon them of late by those outlaws," if their crimes had only been against agents of the Farm.¹⁴²

The *Memoirs* followed Mandrin's exploits from October 1754 until his execution the following May. The book was largely compiled from public accounts, such as those found in newspapers. In fact, some sections were printed verbatim from other sources. For example, the letters from Valence leading to and following Mandrin's execution appeared unaltered. Thus, the *Memoirs* portrayed Mandrin in a similarly positive light. The smuggler was depicted as the honorable leader that he was rumored to be. The *Memoirs* did, however, contain criticisms of smuggling, revealing a more complicated image than other characterizations of the contrabandist. Interestingly, his exploits received a direct comparison with those of the Hawkhurst Gang and their infamous raid on the Poole custom house and the

¹⁴⁰ *Authentic Memoirs of the Remarkable Life and Surprising Exploits of Mandrin*, 2nd ed., (London, 1755), 3.

¹⁴¹ *Ibid.*, 4.

¹⁴² *Ibid.*

subsequent murders of Galley and Chater. The author related those tales and stated that if Mandrin's smugglers were compared "with these English desperadoes, I believe the first will be judged much less criminal than the latter."¹⁴³ The author reasoned, erroneously, that Mandrin and his gang had never killed in cold blood or out of anything other than self-defense. Mandrin was a criminal, to be sure, but he was an honest one. This portrayal was consistent across British print culture with very few overtly negative characterizations of the smuggler captain. This author pinned his extraordinary character on his ambition, writing that "ambition was the passion of his soul," and he was assured that he would have found greatness in whatever course he took.¹⁴⁴ Whether it was his ambition, leadership, or convivial nature under pressure, even in the face of powerful enemies, Mandrin was the new archetype for the moral criminal. He was the first smuggler as honest thief to appear in British print culture, the Robin Hood of illicit traders, and the character that authors could refashion in English culture.

Mandrin was further differentiated from the portrayal barbaric English smugglers by a series of images that were published of him. Kwass notes the popularity of these images in France. The printer of the *Whitehall Evening Post* noted the popularity of the images as well, stating "an engraver having lately publish'd a print of Mandrin, who is at the head of the smugglers, the demand for it has been as great as if he had been the first Hero of the Age."¹⁴⁵ Kwass reveals a series of images printed of the great smuggler, one popular image "portrays the smuggler as a conquering hero," and another as "an avenging merchant who forces open the tobacco monopoly as well as a military commander."¹⁴⁶ It is not easy to discern how many of these prints filtered into British print culture, though there was certainly a market for them. At least one image was printed in the *Authentic Memoirs* on the smuggler, which shows several armed men, dressed nicely in coats and cocked hats, with two pistols tucked into their

¹⁴³ *Authentic Memoirs*, 6.

¹⁴⁴ *Ibid.*, 4.

¹⁴⁵ *Whitehall Evening Post*, 15-17 May 1755.

¹⁴⁶ Kwass, *Contraband*, 269.

belts. One man fires a weapon into the air and what appears to be women and children look down on them from open windows in the surrounding houses. The caption notes that this depicted “Captain Mandrin and Part of his Gang,” each of them standing in a seemingly calm and dignified position.¹⁴⁷ Aside from the gun being fired into the air, there is no sign of the violence that would be expected of smuggling gangs. Certainly, this was a group of men very distinct from the brutal depictions of the Hawkhurst Gang whipping men to death and callously throwing stones upon them. Mandrin was consistently portrayed as something almost wholly different than the smugglers in Britain, both through text and image.

Mandrin immediately became engrained in British print culture. He appeared in verse and social commentary and his influence on the criminal underworld continued. A writer from Valence noted that numerous epitaphs were written for Mandrin and shared one with the printer of the *Public Advertiser*.¹⁴⁸ In England, at least one owner of a racehorse, a Mr. Hopper, named his grey gelding after the famous smuggler chief.¹⁴⁹ One author penned a poem in which Mandrin’s ghost appeared to Louis XV and warned him of the impending war, which would see France fall to Britain. Mandrin was both the martyr killed by a tyrannical and arbitrary government and the image that, according to this British writer, would most strike fear into the heart of Louis XIV.¹⁵⁰ In that same vein, a privateer out of Liverpool was named the *Brave Mandrin* in preparation for war against the French.¹⁵¹ There was obviously something poetic about Mandrin continuing to plague French commerce, even in death.

Mandrin’s cultural legacy unsurprisingly had a strong criminal element. Soon after news of his death reached Britain there were reports about the activities of the smugglers in France who had rallied behind his name. One report stated that French smugglers had “canoniz’d their late commander, having

¹⁴⁷ *Authentic Memoirs*, n.p.

¹⁴⁸ *Public Advertiser*, 16 Jul. 1755.

¹⁴⁹ *London Evening Post*, 1-3 Jul. 1755.

¹⁵⁰ *Gentleman’s Magazine*, Feb. 1756, 88.

¹⁵¹ *Public Advertiser*, 1 Aug. 1755.

instituted an order which is stiled that of St. Mandrin."¹⁵² In addition to continued concerns about the diplomatic fallout regarding the kidnapping of Mandrin on foreign soil, the smugglers formerly under Mandrin continued to operate under new leadership. Reports surfaced that they had chosen a leader who carried "a standard, on which Mandrin is painted at the head of his gang with a carot of tobacco in his hand," with a Latin inscription reading "*Audacia, Fortitudo, Libertas.*"¹⁵³ Even in death he continued to lead his men. Another report suggested that a man named "Piedmontois" had taken over Mandrin's gang, who was said to be "a fellow as resolute as the late Mandrin," but was captured by French forces.¹⁵⁴ There were further reports indicating that French authorities were concerned with his lasting influence. The *London Evening Post* reported that French communities had allegedly taken Mandrin's war against the Farm to heart and that his execution had "opened all mouths against the farmers," who were criticized for living comfortable lives on the backs of the ordinary people.¹⁵⁵ Again, these reports would have pleased many Britons who detested French institutions and enjoyed the symbol that Mandrin had become against French absolutism.

When the immediate fascination with Mandrin wore off after his extraordinary career and violent death, his name carried a set of values in the criminal world and a certain level of prestige. A large contingent of smugglers was allegedly under the command of Mandrin's brother, gathering arms and forces and purchasing tobacco in Switzerland, only two years after his death.¹⁵⁶ A few months later there were reports of a woman who called herself the sister of Mandrin leading another large gang of smugglers in France. There was a report that these smugglers robbed an abbey, killed several people in the process, and that the supposed sister of Mandrin, "whether real or pretended, is a Virago full of

¹⁵² *Read's Weekly Journal Or British Gazetteer*, 12 Jul. 1755.

¹⁵³ *London Evening Post*, 1-3 Jul. 1755.

¹⁵⁴ *London Evening Post*, 11-14 Oct. 1755; It is not clarified if this is the same man who was called 'the Piedmontese' from earlier reports.

¹⁵⁵ *London Evening Post*, 12-15 Jul. 1755.

¹⁵⁶ *London Evening Post*, 22-24 Feb. 1757.

resolution, and armed in a most terrible manner.”¹⁵⁷ The name Mandrin still carried immense weight in France, leading to these similar characterizations of criminals who styled themselves after the famous smuggler, with the above report even calling the supposed sister of Mandrin, “her Ladyship.”¹⁵⁸ Several years later there was a report of a new leader of smugglers who had “the same spirit as the famous Mandrin.”¹⁵⁹ Mandrin’s transformation to boogeyman for France and archetype for the leader of criminal organizations was not exclusive to France. In Cornwall, as smuggling began to increase, there was apparently a smuggler leader that earned the title. The *London Evening Post* reported that “the Cornish Mandrin, who is Lord of a Manor, and heads the banditti,” shot an officer who attempted to do his duty.¹⁶⁰ The officer eventually died of his wounds but the witnesses would not deem it a murder, though it was not said if it was out of fear of this “Mandrin” or affinity. Nonetheless, the name Mandrin was as potent in Britain as it was in France for criminal kingpins.

The duality of British portrayals and perceptions of smuggling is clear through the print culture surrounding the British smugglers of the 1740s and the famed Mandrin of the 1750s. Smuggling carried out on foreign soil to the detriment of Britain’s enemies could be looked upon in a positive light, even celebrated by some. Mandrin’s moral economy and his crusade against hated French institutions made this perception much more palatable to the British reading public. He was often portrayed as fighting for the common people of France, which of course was his own view of his actions. Few English accounts suggested that he terrorized the population of southeastern France like the smugglers of Kent and Sussex. He was a supposedly honest thief while his English counterparts were cruel and barbarous, something closer to demons than Englishmen. Despite Mandrin’s popularity, metropolitan perceptions of smuggling remained unchanged. It was seen as a disease in the body politic and severe legislation was

¹⁵⁷ *London Evening Post*, 16-18 Jun. 1757.

¹⁵⁸ *Ibid.*

¹⁵⁹ *London Evening Post*, 17-19 Sept. 1761.

¹⁶⁰ *London Evening Post*, 17-19 Jul. 1755.

the best remedy. Throughout the eighteenth century the British government generally believed that it had to be stamped out through force, though there were a few ministers, such as Henry Pelham, who understood that lower taxes would disincentivize the smugglers. Regardless, when smuggling became an issue in some of the British colonies in America, the government sought to implement some of the methods used in England to suppress it. Colonists became subject to some of the same perceptions that London had of English smugglers as Parliament attempted to suppress the trade of New England. Ultimately, this only exacerbated the growing tension between Britain and her colonies.

“An Essential Ingredient”: Colonial Smugglers and the Molasses Act

On August 11th, 1818, John Adams wrote a letter to William Tudor, one of several in an extensive correspondence touching on various aspects of the conflict with Great Britain, in which he quipped, “I know not why we should blush to confess that molasses was an essential ingredient in American independence. Many great events have proceeded from much smaller causes.”¹ Forty-three years had passed since the outbreak of the American Revolution, but the comment was an astute observation nonetheless. In the decades preceding the war between Britain and its rebellious colonies, the perception of the colonists by many politicians in London had soured, the catalyst for which was an extensive illicit trade in foreign molasses, particularly French molasses smuggled from sugar islands in the West Indies.

In his explication of the colonial molasses trade, historian Gilman Ostrander states that “the protests against the Molasses Act of 1733 and the excitement aroused by the Sugar Act of 1764 demonstrated the immense importance of molasses” to the Northern colonies, as they were called at the time.² Many colonists understandably bridled at the Molasses Act because it was a direct attack on their rum distilling industry, which was a vital part of their economy. Historian John J. McCusker’s exhaustive analysis reveals just how important it was. He argues that rum distilling “created a substantial colonial industry, employing local capital, management skills, and labor,” and furthermore that “rum and molasses represented for the colonial economy almost a currency.”³ Thus, the attempted

¹ John Adams to William Tudor, 11 Aug. 1818, John Adams, *The Works of John Adams, Second President of the United States: with a Life of the Author, Notes and Illustrations, by his Grandson Charles Francis Adams* (Boston: Little, Brown and Co., 1856). Vol. 10. <http://oll.libertyfund.org/titles/2127>.

² Gilman Ostrander, “The Colonial Molasses Trade,” *Agricultural History* 30, no. 2 (April 1956), 77; Sugar Act also known as the American Revenue Act.

³ John J. McCusker, “The Rum Trade and the Balance of Payments of the Thirteen Continental Colonies, 1650-1775,” *Journal of Economic History* 30, no. 1 (March 1970): 247. This brief article is used to summarize the arguments found in McCusker’s dissertation of the same name, which he finished the same year.

destruction of this industry and the rhetoric concerning the smuggling trade that maintained the rum industry deserve closer examination. The Molasses Act has been generally overlooked because it failed in its application and intent. Historians have therefore glossed over the topic almost to suggest that the tensions that were evident in 1764 after the passage of the Sugar Act arose rather suddenly. However, the tensions between Britain and the Northern colonies stemmed, in part, from the colonial merchant community being cast as smugglers, which was a stigma that troubled American overseas merchants and alienated them from the mother country.

When studying the rising conflict between Britain and the colonies, historians have typically focused on the Sugar Act and its role as a catalyst, though even it has received less attention than later controversies, such as the Stamp Act. If the previous Molasses Act is discussed at all it has typically been mentioned briefly as a prelude to the subsequent revision in 1764. Edmund and Helen Morgan comment upon the inefficiency of customs collection and the success of American smugglers before launching into an account of George Grenville spearheading the Sugar Act, but neglect to even name the preceding Act.⁴ In his work on Boston smugglers, John W. Tyler focuses almost exclusively on the period of the 1760s and beyond. He does not discuss the issue of smuggling in the three decades following the passage of the first Act, despite his introduction dividing the smugglers into two categories, including “those who sought to avoid the duty on foreign molasses.”⁵ These works are indicative of the general absence of discussion on the thirty-one year period during which the Molasses Act of 1733 was in effect and the extent of its influence on the British perception of colonists as smugglers. However, some works address the issue more directly.

⁴ Edmund Morgan and Helen Morgan, *The Stamp Act Crisis: Prologue to Revolution* (Chapel Hill: The University of North Carolina Press, 1953), 23.

⁵ John W. Tyler, *Smugglers and Patriots: Boston Merchants and the Advent of the American Revolution* (Boston: Northeastern University Press, 1986), 13.

Historian Theodore Draper, for example, explains some of the fundamental problems with the Molasses Act and Sir Robert Walpole's reluctance to pursue merchants who evaded the law, asserting "much of what came out openly in the in the 1760s and 1770s lies buried in the evasions of the 1730s."⁶ Unfortunately, he did not explore this issue any further or note growing perception of colonists as smugglers that developed from those evasions. Some colonists and their supporters believed that their legitimate commerce was criminalized and that they were villainized over the years for continuing that trade. This added to an existing negative perception of colonists that Jack Greene identifies in *Evaluating Empire and Confronting Colonialism in Eighteenth-Century Britain*, in which he describes the phenomenon in British publications. Greene argues that colonists were regularly described with disdain, using a "language of alterity" through which they were variously characterized as "the poor, the unemployed, the unwanted, the outcasts, the very dregs of English society."⁷ As seen throughout this dissertation, this was how smugglers were already portrayed in Britain. The conception of colonists as smugglers was a natural association in this light and British authors made the connection in print throughout the eighteenth century. Greene goes on to argue that the negative characterization was not "universal," but that it was "ubiquitous in British publications—in commercial tracts, critiques on colonial slavery, imperial histories, travel memoirs, fake chorographies, novels, poetry, plays, magazine and newspaper essays, political pamphlets, and parliamentary speeches."⁸ There were many aspects to the perception of colonists Greene describes, but that of smuggler and criminal was one of the most damaging to the relationship between the mother country and colonies. After all, British experience with smugglers showed that they could be organized, violent, and overtly treasonous or rebellious.

⁶ Theodore Draper, *A Struggle for Power: The American Revolution* (New York: Random House, 1996), 98.

⁷ Jack Greene, *Evaluating Empire and Confronting Colonialism in Eighteenth-Century Britain* (New York: Cambridge University Press, 2013), 51.

⁸ *Ibid*; Chorographies of the Americas mapped and described vast regions. English chorographers described colonial regions as untamed, both the land and its inhabitants, often inventing sensational details for readers. These chorographies contributed to the metropolitan perceptions of the colonies as un-English and inferior.

The London elite's perception of colonists, namely the merchants of Boston, as smugglers began well before even the Molasses Act was passed, though it was cemented and intensified thereafter. Jeremiah Dummer was an agent of the Massachusetts Bay colony in London who is mostly remembered for his work *A Defence of the New-England Charters* published in 1721. He was also among the first American born scholars to earn a doctorate from a European university, and it seems he was proud of his origin as an *American*.⁹ As a well-educated resident in London and agent for the colonies, he was connected to elite society and able to gauge sentiments on important issues and was a strong defender of colonial positions. As noted, he famously came to the defense of the colonies when a bill was proposed in Parliament to revoke colonial charters and he similarly defended New England when many commentators in London were outraged at the failed expedition to take Canada during Queen Anne's War. Observers in England blamed colonists for failing to provide supplies to troops for the expedition, encouraging and harboring deserters, and engaging in trade with the enemy.

In his tract, *A Letter to a Noble Lord, Concerning the Late Expedition to Canada*, Dummer argued against what was apparently an established perception of Boston merchants as smugglers. He related that there was an "absurd" and "false" notion in London that the colonists of New England purposely hindered the expedition to Canada because "the Boston merchants found their account in a clandestine trade with the French," and did not want their trade destroyed by the successful conquest of Canada.¹⁰ He asked the readers if they truly thought that the General Assembly of Massachusetts Bay would "forfeit their honour with her Majesty, and betray their dear native land, only to gratify a few smuggling traders?"¹¹ No, he asserted, the "Boston merchants have more honour and conscience and love to their country, (whatever some people may say of 'em here, judging them I suppose by themselves) than to

⁹ Calhoun Winton, "Jeremiah Dummer: The 'First American'?" *The William and Mary Quarterly* 26, no. 1 (January 1969): 107.

¹⁰ Jeremiah Dummer, *A Letter to a Noble Lord, Concerning the Late Expedition to Canada* (London, 1712), 15.

¹¹ *Ibid.*, 16.

engage in so criminal a commerce.”¹² Many merchants would in fact do so, as would become clear throughout the eighteenth century, but this excerpt shows that there was already a belief by many in elite London society that colonial merchants were smugglers. Historian Douglas Leach even attributed this perception of colonists as one of the roots of conflict in his book on the origins of the American Revolution.¹³ Like the smugglers of the south coast of England, colonial smugglers were viewed as a traitorous group who would trade with the greatest enemy of the nation, even in time of war, and would put self-interest over that of their colony and Britain.

This was not a brief wartime concern that came to Dummer’s attention, but remained a consistent idea that the colonial agent again addressed in his *Defence of the New-England Charters*. Smuggling was one of the primary concerns that led Parliamentarians in 1715 to propose a bill for regulating charter and proprietary governments in the colonies. The bill failed, but Dummer feared the suggestion that colonial systems of government might be altered. Dummer focused on clandestine trade as the third part of his defense, stating “what I have heard most insisted on is, That the Acts of Trade and Navigation...are disregarded in the Charter Governments [Massachusetts, Rhode Island, and Connecticut]; and that this evil cannot be effectually cur’d, but by a resumption of the charters.”¹⁴ Dummer made a series of arguments against the apparently strong perception of colonists as smugglers, first stating that the complaints were old and no longer were relevant, that New England merchants were overwhelmingly loyal and were not the smugglers they were made out to be, and that the true complaints were those the merchants had made against customs collectors and the judicial system for inefficient and arbitrary enforcement of trade laws.

¹² Dummer, *A Letter to a Noble Lord*, 16.

¹³ Douglas Leach, *Roots of Conflict: British Armed Forces and Colonial Americans, 1677-1763* (Chapel Hill: University of North Carolina Press, 1986), 40.

¹⁴ Jeremiah Dummer, *A Defence of the New-England Charters* (London, 1721), 43.

Dummer complained that the customs service in New England was insufficient when the complaints were first made, with a single collector covering a large region. Merchants trading to neighboring colonies would have had to travel far out of their way to ensure they paid dues and, he argued, it was natural for individuals whose motive was profit for their businesses not to incur those losses. The Surveyor General of North America, he related, criticized Connecticut merchants “as setting the Laws of Trade and Navigation at the utmost defiance,” but Dummer argued that these were loyal British subjects who attempted to pay their duties even when the customs service had become rigorous and burdensome, even detrimental to trade.¹⁵ In line with some treatises about the plight of merchants in Britain, Dummer noted that “the merchants...greatly complain of the oppression of the officers,” rather than officers having legitimate complaints about merchants.¹⁶ In the case of Connecticut, he related that collectors had previously been stationed at every significant port, at least eight ports for the colony, but this had been reduced to one and all merchants, even if sailing a sloop in the opposite direction along the coast to a neighboring colony, would have to make the journey out of their way to pay what was expected by law. It was an unsustainable arrangement for small-scale merchants in that colony.

Dummer supported his argument by posing the question of whether it could be just, if there were indeed a number of smugglers in these colonies, that the entire colony should be punished to the extent that their system of government was abolished? To that point, he further noted that London itself had significant problems with smugglers, and seemingly pervasive problems with importation of calicos and fraudulent drawbacks for falsely exported trade goods, but these were not used as a defense for disenfranchising “this ancient corporation.”¹⁷ Additionally, he contended that the resumption of charters would not solve a smuggling problem in the colonies. The judicial process for offenses, he

¹⁵ Dummer, *Defence of the New-England Charters*, 44.

¹⁶ *Ibid.*, 43.

¹⁷ *Ibid.*, 47.

noted, already went through courts of admiralty where a judge appointed from London would rule on cases of colonial merchants. He further intimated that colonists were frustrated with this judicial role of admiralty courts.

It did not help Dummer's case that royal governors complained of smuggling trades, especially the continued trade with the French in Canada. Governor William Burnet, for example, suggested in a speech to the General Assembly of New York that if "the pernicious trade to Canada can be effectually prevented," the revenue would be sufficient for defense of the colony.¹⁸ The perception of colonists as smugglers was already being used as an argument for altering colonial systems of government and creating more stringent laws to regulate trade. Naturally, Dummer's defense became a consistent addition to the pro-colonial literature within the empire. Originally published in London in 1721 while he was an agent for Massachusetts, the work was reprinted posthumously in Boston in 1745 and 1765 and again as the first selection in *A Collection of the Most Interesting Tracts, Lately Published in England and America, on the Subjects of Taxing the American Colonies, and Regulating Their Trade*, published in London in 1766.

The perception of New England colonists as smugglers was exacerbated by complaints from the British sugar islands. The sugar producing islands in the British West Indies had quickly become the most profitable per capita possessions in the British empire since the introduction of the cash crop in the mid-seventeenth century. Consequently, a strong sugar lobby developed in London, especially from the representatives for Barbados.¹⁹ The competition between British and foreign sugar, particularly French and Dutch, became a primary and consistent concern for Parliament throughout the eighteenth century. The Francophobia that informed so much of the protectionist policy discussed earlier similarly shaped imperial sugar policies to the detriment of the Northern colonies' commerce. The favoritism for British

¹⁸ *Boston Gazette*, 3 Jun. 1723.

¹⁹ B.W. Higman, "The Sugar Revolution," *Economic History Review* 53, no. 2 (May 2000): 225.

sugar (protection) and fear of strong competition from foreign producers eventually led to the creation of the Molasses Act.

The concern over French sugar and calls for redress were already apparent by the turn of the eighteenth century. An anonymous tract published sometime in the late seventeenth century, *The Case of His Majesties Sugar Plantations*, complained of the duties on English sugars that made the produce of the French sugar islands cheaper in international markets.²⁰ British sugar planters complained about various restrictions throughout the early eighteenth century, namely high duties and a prohibition on direct exports to foreign markets. British sugar producers struggled to compete with foreign production. By 1730, the trade between the Northern colonies and foreign sugar islands was one of the chief concerns expressed by planters and their agents in London. A petition of Barbadian sugar planters and traders to the Privy Council in 1730 shows the situation clearly. The petitioners complained that over the previous decades “great improvements have been made by the Dutch and French in their sugar colonies,” both from policies of their respective governments allowing their sugars to be sold cheaply in international markets and “from a pernicious trade carried on by them to and from Ireland and the Northern British colonies.”²¹ The petitioners further complained of the molasses trade specifically, noting that the Northern colonies were establishing a significant rum distilling industry that competed with that of the British sugar islands. They asked that the importation of foreign produce to these British possessions be prohibited. Agents for New Jersey, Rhode Island, Pennsylvania, and Massachusetts argued that Northern colonies’ trade to the Caribbean was beneficial to the empire and that it was vital

²⁰ The precise publication date of this tract is unknown, but the Gale Primary Sources database Eighteenth Century Collections Online (ECCO) notes that the British Library Catalogue suggests 1670 and Wing suggests 1677, while ECCO suggests the range of 1670-1701.

²¹ "America and West Indies: November 1730, 21-30," in *Calendar of State Papers Colonial, America and West Indies: Volume 37, 1730*, ed. Cecil Headlam and Arthur Percival Newton (London: His Majesty's Stationery Office, 1937), 357-376. *British History Online*, accessed August 23, 2021, <http://www.british-history.ac.uk/cal-state-papers/colonial/america-west-indies/vol37/pp357-376>; This petition was also printed in *The Present State of the British Sugar Colonies Consider'd* (London, 1731).

to the livelihood of many British subjects living in North America, though the weight of the respective positions would later be evaluated in Parliament.

In March 1731, the petitions of British sugar planters and British merchants trading with the islands were delivered to the House of Commons. Mr. Jonathan Sisson, a witness called by the Commons to address the sugar planters' petition, reported to a committee in the Commons that "a considerable trade has been carried on between New England, and other English Northern colonies, and the French sugar colonies" through which British colonists traded "horses, lumber, flour, and other goods...for molasses, and rum, particularly molasses."²² The petitioners complained that Northern colonists were bolstering the growing strength of the French in the Caribbean while the British sugar islands were in a state of decay. It was a similar rhetoric of economic millenarianism to that used in England concerning the woolen industry. Historian Richard Pares points to several additional motivations of the petitioners, such as the desire to suppress Northern colonial rum distilling, but the petitioners focused on the lamentable state of the sugar industry to gain what they could from Parliament.²³ The House of Commons responded extremely favorably to the petitioners. The bill drafted in response to the complaints from the sugar islands prohibited "the importation of foreign sugar, rum, or molasses into Great Britain, Ireland, or any of the American dominions, and forbade the carrying of horses or lumber into the foreign sugar colonies."²⁴ Agents for the mainland colonies responded with their own petitions that were published in colonial newspapers.

The petitions of the Northern colonies reveal the other side of the antagonistic rhetoric in the conflict between the British West Indies and the continental colonies. The colonists had been criticized as smugglers who supplied the enemy with the needed provisions to build up their sugar colonies to the

²² Leo F. Stock, *Proceedings and Debates of the British Parliament Respecting North America*, IV (Washington, 1930), 93.

²³ Richard Pares, *Yankees and Creoles: The trade between North America and the West Indies before the American Revolution* (Cambridge: Harvard University Press: 1956), 35.

²⁴ Stock, *Proceedings*, 103n.

detriment of the most valuable possessions in the British empire. Colonial agents defended the mainland North American colonists as honest and hardworking people. Their agents further contended that Northern colonists were extremely valuable to the imperial balance of trade, suggesting that their trade with Dutch and French sugar islands allowed colonists to sell surplus goods for foreign specie and molasses.²⁵ The dual stigma of colonists and smugglers was countered strongly, with these petitioners arguing that the “Northern Colonies are a laborious industrious people, live with great frugality, and are but just able to maintain themselves and families with decency.”²⁶ On the other hand, the Northern petitioners contended that the sugar islands had a favorable balance of trade with Britain, which allowed them to “get great estates, and live in wantonness and luxury,” and further that the French and Dutch were able to improve their sugar production because of the “industry and frugality of the people, and the notorious luxury and extravagance of our own sugar islands.”²⁷ The petition also suggested that Barbados carried on the same trade with the French and Dutch. The petitioners argued that British sugar planters only criticized the Northern colonies after 1715 when Barbados had enacted a tax on imported foreign sugar and molasses, which the petitioners contended led to a smuggling trade on the island.

The criticisms expressed by both groups made their way into the broader British print culture beyond Parliament. One anonymous pamphlet, *A Short Answer to an Elaborate Pamphlet, Entitled, The Importance of the Sugar Plantations*, showed that the aggressive rhetoric found in the opposing petitions was published in pamphlets and newspapers.²⁸ The author, as noted in the title, responded to a pamphlet that supported the sugar planters’ position. The Barbadian position supporter contended that only Massachusetts and Rhode Island opposed the bill because their merchants were the ones that most frequently traded with the foreign sugar colonies, though the author of *A Short Answer* argued

²⁵ *New-England Weekly Journal*, 6 Sep. 1731.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ The actual title of the pamphlet to which the author responded was, *The Importance of the Sugar Colonies to Great-Britain Stated* (London, 1731).

that the other colonies had not been apprised of the bill and would certainly mount a strong opposition, as was evident by the petitions their agents eventually submitted to Parliament.²⁹ In *A Short Answer*, the author took umbrage at the tone of the arguments, noting that the sugar position supporter used “Sir Josiah Child’s Book of Trade very hard upon them[the Northern colonists], and goes on to mortify them,” upon several misconceptions.³⁰ He further commented that the author of *The Importance of the Sugar Colonies* treated subjects of North America “as if they were separated from the body, and as if we had little or no interest in them,” whereas the sugar colonies were portrayed as the most important parts of the empire, other than Britain itself.³¹ The author of *A Short Answer* then emphasized the criticisms made in the Northern petitions, arguing that the plight of the sugar colonies was largely their own fault and that the sugar planters “may be asham’d of their own neglect and improvidence, since a trifling abatement in their exorbitant luxury,” would allow them to improve their colonies and fortifications, while the Northern colonists were “an industrious people, who may well be said to earn their bread with the sweat of their brows.”³² The criticisms of New England colonists as illicit traders received strong responses, but Parliament was desperate for its Caribbean colonies to compete with foreign sugar production.

Historians have confirmed many assertions made by the Northern petitioners. The Northern colonies needed markets beyond the British Caribbean to take on their surplus goods, and the British sugar islands would not and could not supply the needed molasses for their growing rum industry. Marc Engal’s economic analysis has shed further light on the intricacies of the economic situation in the Caribbean that led to the tension between the two colonial regions. He reveals that prices of foodstuffs

²⁹ *The Importance of the Sugar Colonies to Great-Britain Stated*, 6; *A Short Answer to an Elaborate Pamphlet, Entitled, The Importance of the Sugar Plantations, &c. Compos’d of Many Words, Much Malice, very little Argument, and Abundance of False Reasoning* (London, 1731), 7.

³⁰ *A Short Answer to an Elaborate Pamphlet*, 16-17.

³¹ *Ibid.*, 17.

³² *Ibid.*, 20-22.

that Northern colonists traded to the British West Indies remained stagnant from 1720 to 1745, but the French plantation system, “which expanded more rapidly during these years, provided some impetus for northern growth.”³³ Barbadian complaints also were not without reason. Barbadian sugar production declined for half a century, but according to John J. McCusker it began recovering in the 1720s.³⁴ The sugar planters wanted their product to have strong protection, as wool did in Britain. Planters viewed sugar as vital to the commercial strength of the empire. The author of *A Short Answer* argued against this belief, noting that the author of *The Importance of the Sugar Colonies* “would persuade us,” that prohibiting importation of foreign sugar, rum, and molasses was “as absolutely necessary as the prohibiting the carrying of wooll to France.”³⁵ A strong contingent of Parliament agreed with this sentiment. The bill prohibiting the export of horses and lumber from the Northern colonies to foreign possessions and the import of foreign sugar, rum, and molasses passed the Commons and went to the House of Lords. The prohibitory bill would die there as the “Lords deliberately continued debate on the bill until Parliament was prorogued.”³⁶ The Lords understood that this was a drastic step and were not willing to pass the extreme measure. This initial dispute was only the beginning. Another prohibitory bill would be brought before the House of Commons the following year.

The debates and proceedings in 1732 in the House of Commons reveal several important aspects about the competition between the Northern colonies and the British West Indies. The Commons was prepared to side with the sugar colonies. A series of witnesses appeared in favor of the Barbadian position while Northern colonial agents were left to argue general points as well as they could

³³ Marc Engal, “The Economic Development of the Thirteen Continental Colonies, 1720 to 1775,” *The William and Mary Quarterly* 32, no. 2 (April 1975): 207.

³⁴ John J. McCusker, “The Economy of the British West Indies, 1763-1790: Growth, stagnation, or decline?” in *Essays in the Economic History of the Atlantic World* (New York: Routledge, 1997), 206.

³⁵ *A Short Answer to an Elaborate Pamphlet*, 10.

³⁶ Albert Southwick, “The Molasses Act—Source of Precedents,” *William and Mary Quarterly* 8, no. 3 (July 1951): 395.

with the time they had, but the bill passed in the Commons all the same.³⁷ The fear of French power was clear throughout the debates and the prospect of a significant trade carried on between British and French subjects was a recurring point of discourse, as it had been in domestic trade discussion.³⁸ The passage of the bill showed the commitment of the House of Commons to supporting the sugar planters' interests over those of the Northern colonists. However, the lower house unsurprisingly contained a significant strain of opposition.

Parliamentary opposition to the proposed measure focused on various aspects of the bill, but MPs were most notably concerned with the prohibitory nature of any such legislation, and the favoritism shown to one set of colonies over another. The prohibition of lumber trading, for example, was criticized immediately in the debates on the bill.³⁹ James Oglethorpe, of Georgian fame, rose to the defense of the colonies with a striking argument. He asserted that Parliament should not favor "the particular interest of any country or set of people" over another, because each of the colonies was "a part of our own dominions."⁴⁰ He believed that the sugar colonies needed Parliament's assistance, but argued that the proposed prohibition on exported lumber would "do more harm" to the northern colonies than would be gained by the sugar interests.⁴¹ Clearly then, he continued, it was necessary that Parliament "must think of some other methods for putting them [British sugar colonies] upon equal footing with" the French sugar islands.⁴² More petitions from the colonial agents in London followed Oglethorpe's defense of the northern interests, but the bill passed the House of Commons again to be considered by the House of Lords. The bill failed once more in the upper house because of intentional delay, only to be revised and reconsidered the following year.

³⁷ Stock, *Proceedings*, 93-103.

³⁸ Pares, *Yankees and Creoles*, 60.

³⁹ Stock, *Proceedings*, 124.

⁴⁰ *Ibid.*, 125.

⁴¹ *Ibid.*

⁴² *Ibid.*

The third and final proposed bill took on a different form than the previous two, and the debates in Parliament took further shape regarding the opposing viewpoints toward the British colonies. Instead of a prohibition of trade there would be a series of duties on enumerated items transported from foreign colonies and imported into British colonial ports. The idea of a complete prohibition on the several trade goods included in the original bills had proved too much for the House of Lords to consider. The duties proposed in the third iteration of the bill met with fewer opponents in the House of Commons, but the dissenters were correct in pointing out the superficial nature of changes made to the bill. Unsurprisingly, individuals in the opposition to Walpole were among those to criticize the measure. Sir John Barnard, for example, astutely argued that the “duties amounted to a total prohibition of trade” between foreign and British colonies, which might prove “fatal” to the Northern colonies. Furthermore, it would serve only “to discourage the fair trader and encourage running.”⁴³ The response to Barnard’s warning against the high duties revealed the true intent of the measure and the extent to which Parliament would side with the sugar planters’ interests.

Colonel Martin Bladen, Commissioner of the Board of Trade and Plantations, stood next to address Barnard’s comments. He claimed that the proposed duties “would not prove an absolute prohibition,” though admittedly, “he meant them as something that should come very near it.”⁴⁴ Thus, the intent of the bill had not changed in the eyes of its supporters, or the Board of Trade. Gilman Ostrander argues that “the destruction of the New England rum industry was the main purpose of the Molasses Act,” which was the obvious outcome of any prohibitively high duties, or *near prohibition* as claimed.⁴⁵ Colonel Bladen then turned his attention to the Northern colonies. This near prohibition was a thinly veiled attack on their economy, as he felt they “raise the French islands at the expense of ours,

⁴³ Stock, *Proceedings*, 182.

⁴⁴ *Ibid.*

⁴⁵ Ostrander, “Colonial Molasses Trade,” 79.

and raise themselves also too high, even to an independency."⁴⁶ Instead of making French molasses into rum, he intended to "turn them to sowing corn, making malt, and extracting spirits from thence, which is a manufacture we shall not envy them."⁴⁷ The statement was clear; the sugar islands would be considered over the Northern colonies.

Colonel Bladen's strong position against the Northern colonies, particularly New England, have been noted by various authors. Historian Rory T. Cornish writes that his distaste for this colonies was possibly owing to "his own economic interests in the West Indies," and he further notes that Bladen consistently promoted policies that would increase imperial control over the Northern colonies, in line with the Colonel's reasoning on the Molasses Act.⁴⁸ Bladen's comment about the rise of the colonies, *almost to an independency* was in line with shifting discourse on the Northern colonies. British observers were concerned about the growing economic strength of the Northern colonies. Bladen's comments showed that the dispute between the merchants of the Northern colonies and British West Indian sugar planters was transforming into a conflict between the mother country and her colonies. The British government and public commentators would become increasingly concerned with ensuring the economic dependence of the Northern colonies through reformed policies designed to strengthen the empire.

Colonel Bladen's bold assertions met with strong opposition. Sir John Barnard bemoaned the foolishness of the high duties proposed, arguing that all the customs officers of England could not enforce such an act. That fact would have been obvious to Parliament by then, as they saw the proliferation of smuggling on their coasts, though they would also begin to take a much harder line on these smugglers in the coming years. Colonel Bladen, on the other hand, contended that the distinction

⁴⁶ Stock, *Proceedings*, 182.

⁴⁷ *Ibid.*

⁴⁸ Rory T. Cornish, "Bladen, Martin (1680–1746), army officer and politician." *Oxford Dictionary of National Biography*. 23 Sep. 2004; Accessed 24 Aug. 2021. <https://www-oxforddnb-com.ezproxy.uta.edu/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-2551>.

between a duty and a prohibition would prevent the “pernicious practice” of smuggling.⁴⁹ Barnard responded with what would prove to be the most prescient comment of the debate, but also rather obvious to many observers. Citing the fact that the duty was “equal to, if not above, the first price of the commodity upon which it was laid,” he reasoned that if Bladen intended it to be a measure capable of preventing “running, he was very unfortunate in what he had proposed, for he had proposed the only method that could be thought on, for setting up and encouraging the smuggling-trade.”⁵⁰ Despite this being a common belief in economic literature at the time, Parliament repeatedly took a hard line on smuggling rather than reducing duties or allowing free trade. These comments were the last on the proposed bill and it passed without further opposition.

Barnard, however, was not done defending the interests of the Northern colonies. He later moved for the petitions of the colonies to be heard as they were for the previous two bills. Petitions came from almost all the colonies, despite the assertions made by the anonymous author of *The Importance of the Sugar Colonies*; Massachusetts, Connecticut, Rhode Island, New Jersey, Providence, South Carolina, Pennsylvania, New York, Virginia, and Maryland were all represented by agents or merchants in some capacity. They all made use of a similar petition, stating that the bill would mean “the ruin of many thousand families there, and will be very prejudicall to the trade and navigation in those parts of the British dominions.”⁵¹ These relatively uniform petitions were an “unusual and imperfect” exercise in cooperation, as the agents typically “lacked a strong tradition of unity,” owing to the varied interests of the mainland British colonies.⁵² Clearly the proposed bill presented an almost unprecedented attack on the Northern colonies’ economic interests and produced a similarly rare response. However, Parliament refused to hear the petitions for this new version of the bill.

⁴⁹ Stock, *Proceedings*, 185-186.

⁵⁰ *Ibid.*, 186.

⁵¹ *Ibid.*, 113-119.

⁵² Michael Kammen, *A Rope of Sand: The Colonial Agents, British Politics, and the American Revolution* (Ithaca: Cornell University Press, 1968), 13.

The refusal was first voiced by Sir William Yonge, future Secretary of War, who stated that it was contrary to the custom of the House of Commons to receive petitions against the laying of excise duties. He reasoned, moreover, that those bringing such petitions seemed to be “aiming at an independency, and disclaiming the authority and jurisdiction” of Parliament.⁵³ Barnard criticized the claim against the Northern colonists as the petitions themselves were recognition of Parliamentary authority. He declared that the petitioners ought to be heard, Parliamentary custom notwithstanding, because the petitioners “have no particular representatives in this House; and therefore they have no other way of applying or of offering their reasons to this House.”⁵⁴ The House of Commons resolved, shortly thereafter, that the petitions would not be heard and the bill passed without further debate. The House of Lords did hear the petitions, but they were not swayed. The bill passed, now titled *An Act for the better Securing and Encouraging the Trade of his Majesty’s Sugar Colonies in America*, and received the royal assent on May 17, 1733.⁵⁵ The passage in the House of Lords may be attributed to the change from a prohibition to, ostensibly, a money bill. In a study on the passage of the later Sugar Act, Historian Allen Johnson comments that the Act was not opposed in the House of Lords, “where as a money bill it was passed with little attention or debate.”⁵⁶ The two Parliamentary customs, which stifled opposition to the bill, surely were part of the intended results of the revision of the final bill from outright prohibition to the institution of prohibitive import duties.

The debates in Parliament over the three bills showed a clearly developed rivalry between sugar planters in the West Indies and the merchants of the Northern colonies. The role of Parliament, however, seemed to shift from 1730 to 1733. The legislative body’s role as arbiter was marked by heavy favoritism toward the British West Indian interests from the outset in both the nature of the bill and the

⁵³ Stock, *Proceedings*, 190.

⁵⁴ *Ibid.*, 190.

⁵⁵ *Ibid.*, 192.

⁵⁶ Allen S. Johnson, “The Passage of the Sugar Act,” *The William and Mary Quarterly* 16, Third Series, no. 4 (October 1959): 514.

majority opinion. What began as a dispute between the economic interests of the Northern and West Indian colonies became more clearly a power struggle between the Northern colonies and Parliamentary authority, at least in the eyes of some British officials. This conflict was exacerbated by the perception these officials, most notably Colonel Bladen, had of Northern colonists as illicit traders and smugglers whose commerce with the French and Dutch in the Caribbean threatened to destroy the highly valued sugar industry.

The pamphlet literature and accompanying newspaper coverage of the disputes leading to the Molasses Act were extensive during the years the bills were pending in Parliament. The print culture surrounding the controversy was predictably inflammatory. Authors in support of either case used invective when argument had run its course. As seen in the case of the Kentish smugglers from Romney Marsh, the British had the conception that once a region was overrun with smuggling it was a serious and long-term issue that could not help but affect policy toward that region. Negative characterizations of certain colonies in the London press were difficult to overcome and were often the only perception readers would have of a colony, about which they knew nothing else. The Northern colonies were demonized for carrying on a trade in some cases illicit, and contrary to the principals of mercantilism and many would argue patriotism. In some cases it constituted an outright smuggling trade. The British sugar islands had their own negative portrayal with which to contend, which shows the extent to which these regional character attacks had infected and influenced the debate on the sugar bills.

The residents of the British sugar islands, particularly the Barbadians as they were the petitioners who had initiated this legislative process, were portrayed as rich, lazy, and often absent planters who complained that their immense profits had been lessened, though they still lived in luxury unknown to their northern neighbors. Joshua Gee made this critique in his highly influential 1729 work, *The Trade and Navigation of Great-Britain Considered*. His words proved powerful enough to be re-asserted by numerous supporters of the Northern colonies and refuted by those of the British sugar

islands. Gee claimed that the planters were “so far from being concerned at the decay of our foreign trade, that they have complained too many sugars were made,” and he further suggested that they would impede any attempts to create new sugar plantations, which many observers felt was necessary to match the production of foreign colonies.⁵⁷ He contributed to the notion that the sugar planters were putting their own interests above that of the empire. In another directed attack on the people of Barbados, Gee noted that the island was “very much worn out,” and could not produce as much sugar as it had in the previous century, “and yet the planters live in great splendor, and at vast expence.”⁵⁸ Worse still, he contrasted them with the French, who apparently “continue to live very frugally, and by their labour, industry, and fertility of their soil, are able to undersell us.”⁵⁹ Gee himself echoed the sentiments of Charles Davenant, the eminent economist and Tory politician, who wrote that “the Northern Colonies, are a help to the Southward Planters, as their frugality, and temperance of living, is a counterpoise to the excess and luxury with which a rich soil, easy acquisition of wealthy, and a warm climate, has infected the southern inhabitants.”⁶⁰ These were strong elements of the arguments put forth by the supporters of the Northern colonies’ positions.

As mentioned, the anonymous author of *A Short Answer* used these criticisms of the sugar planters to support the Northern position, but others did so even more directly. For example, Captain Fayrer Hall, who had given testimony to Parliament in regard to his extensive experience in the trade of British colonies, quoted extensively in two separate works on the topic from Gee and Davenant to show unnecessary extravagance of the sugar colonies, the industry of the Northern colonists, and further that the sugar islands needed the Northern colonies as opposed to the reverse dependency.⁶¹ The following

⁵⁷ Joshua Gee, *The Trade and Navigation of Great-Britain Considered* (London, 1729), 45.

⁵⁸ Gee, *Trade and Navigation of Great-Britain*, 45.

⁵⁹ *Ibid.*

⁶⁰ Charles Davenant, *Discourses on the Publick Revenues, and on Trade*, vol. 2 (London, 1698), 227.

⁶¹ Fayrer Hall, *Remarks upon a Book, Entitled, The Present State of the Sugar Colonies Consider'd* (London, 1731), 31-32; Fayrer Hall, *Considerations on the Bill now Depending in Parliament, Concerning the British Sugar-Colonies in America* (London, 1731), 16.

year an anonymous author continued the attacks on the luxury in which the sugar planters seemingly lived. He argued that the high price of sugar that prevented British sugar planters from competing with foreign sugar was partially from “an unwillingness to retrench in their way of living, which of late years has been run up to the utmost extravagance,” and he suggested that they could sell their sugar for less than the French “if they would be contented with a moderate gain, or live within the bounds of any tolerable frugality.”⁶² Essays in newspapers similarly seized on these critiques, with an essay appearing in the *American Weekly Mercury* arguing that the British sugar colonies’ “declining condition, (if it be so) is owing to their extravagancy, and sumptuous way of living, above their circumstances.”⁶³ There was no other way, the author further suggested, because Barbados was so small and it produced so much wealth that it was not believable that its planters could be facing ruin. Moreover, Barbadian planters had sent a significant amount of money to press this issue in Parliament, so they clearly were not facing as much financial difficulty as they suggested.

Those who supported the position of the sugar colonies refuted the criticisms that the planter class had grown to be a rich and idle group of men and laid their own criticisms on the Northern colonists, denigrating their trade and characterizing them as disloyal merchants who sought to enrich themselves at the expense of the sugar islands and the empire. Like the discourse on wool smuggling, this rhetorical strategy first established the primacy of the sugar trade over Northern industries. This was two-fold, showing that this dispute was between New England and the West Indies, with several authors suggesting that the Middle and Southern continental colonies did not share in the trade or the objections, with one author arguing that “the least sugar island we have, is of ten times more consequence to Great-Britain than all of Rhode Island and New England put together.”⁶⁴ This author also

⁶² *A True State of the Case between the British Northern-Colonies and the Sugar Islands in America* (London, 1732), 5-6.

⁶³ *American Weekly Mercury*, 22 Jul. 1731.

⁶⁴ *The Importance of the Sugar Colonies to Great-Britain Stated, and some Objections against the Sugar Colony Bill Answer'd*, 7; See also, *Observations on the Case of the Northern Colonies* (London, 1731), 3-4.

recognized the heart of the issue, at least for the British government, as would become clear with their support of the sugar planters' position, that this was really about the competition over the sugar market between France and Britain, rather than just a dispute between various British colonies.⁶⁵ Another author further suggested that the value of the Northern colonies was only derived from that of the sugar islands and that the balance of that relationship needed to be preserved.⁶⁶

Authors for the British sugar planters exalted the value of the sugar industry to the empire, much like domestic wool production, after they attempted to isolate the complaints to New England. The author of one tract stated that he would "dare affirm, that the wealth and power of Great Britain depend, in great measure, on the fate of our Sugar Colonies," putting sugar in the same category as the Golden Fleece.⁶⁷ Another author stated that the preeminence of sugar over any other concern was a generally accepted truth. He argued that it was "universally allow'd, that our Sugar Colonies are of the greatest consequence and advantage to the trade and navigation of Great-Britain," but still the Northern colonies were allowed to diminish the sugar trade's value.⁶⁸ The authors in favor of the bill focused heavily on French competition and criticized the molasses trade as less valuable to the British imperial economy. The French, as the greatest rival to Britain, were a primary concern in matters of trade. Commentators portrayed British merchants as disloyal if they engaged in commerce that seemed to enrich the French or set them on better footing in any industry relative to Britain. If trade with the French was not outright smuggling, it was denigrated as a pernicious trade. The Gentleman of Barbados noted the outsized attention France received in discourse on the sugar trade, despite the Dutch making similar progress in their sugar industry, but he argued that "the mischief they do us by this manner of

⁶⁵ *A True State of the Case*, 9.

⁶⁶ Anderson, *Considerations on the Dispute now depending before The Honourable House of Commons, between the British, Southern, and Northern Plantations in America* (London, 1731), 13.

⁶⁷ Gentleman of Barbadoes, *The Present State of the British Sugar Colonies Consider'd* (London, 1731), iv; ECCO indicates that this tract, and a subsequent one by the Gentleman, are "sometimes attributed to John Ashley."

⁶⁸ *Importance of the Sugar Colonies*, 4.

trading is very considerable; but in a far less degree than that of the French, who bid fair to ingross this Northern trade.”⁶⁹ Authors repeatedly attacked the Northern commerce both for this connection to French power and for the trade in molasses and rum.

Molasses and rum, many contended, were detrimental both because of their competition with the produce of the British West Indies, but also because they were the lowest form of sugar and a liquor that had negative effects on the population. These portrayals were meant to further diminish the perception of Northern colonists as the lowest subjects of the British empire and were counterarguments to claims that the inhabitants of the sugar colonies had grown lazy and idle in their opulent plantations. The author of *Considerations on the Dispute* wrote that molasses was “the filth and excrement of the sugar,” and previously was worthless to the French, until the Northerners provided a market to them.⁷⁰ The Gentleman of Barbados had a similarly critical view of liquor distilled from molasses, noting that the Northern colonies imported up to 20,000 hogsheads of French molasses in 1729 and “there manufactur’d into a kind of rum, tho’ very unwholesome and destructive to the health of the inhabitants of that colony.”⁷¹ This view of rum, as contributing to the ills of society and the health of those who consumed it, was repeated in an essay printed in the *American Weekly Mercury*. The author suggested that there were enormous benefits of prohibiting the molasses and rum trade from foreign islands. He further contended that British policy should not be bent so that “a few merchants and distillers in Boston may grow rich by supplying his Majesty’s subjects with an unnecessary and pernicious liquor, which by being rendred so cheap hath been the destruction of thousands of Indians, and...as many of his Majesty’s subjects in North America.”⁷² He further contended that most farmers and planters in the Northern colonies “would be glad if rum were entirely prohibited there, especially

⁶⁹ Gentleman of Barbadoes, *Present State of the British Sugar Colonies*, 26.

⁷⁰ A-----r Z-----h, *Considerations on the Dispute*, 8.

⁷¹ Gentleman of Barbadoes, *Present State of the British Sugar Colonies*, 19.

⁷² *American Weekly Mercury*, 3 Aug. 1732.

such stuff as is made at Boston,” further indicting New England while also observing that rum was “principally owing to our traders cheating the Indians, when drunk with it,” which caused many wars between the colonists and Native Americans.⁷³

These authors regularly stressed these critical views of the Northern colonists, their rum industry, and their molasses trade with the French, but it was the latter that was most damaging to the perception of their commerce. Critical authors depicted the trade as pernicious and a sign of disloyalty. Many authors pointed to the Treaty of Whitehall of 1686, suggesting that commerce between the French and British colonies was already forbidden, with one author further noting that the provisions were necessary even then “to prevent the fatal consequences of a trade with the French; for the trade they carried on with our plantations was equally pernicious, with that carried on from England to France.”⁷⁴ The implication was that the trade between the Northern colonies and French sugar islands was as damaging as the already notorious smuggling on the southern coast of England. The author did not call Northern colonists smugglers, but strongly implied that these were the same men and that policy should not be tailored to suit them:

A particular Merchant or two, by a Prohibition, may lose the Profit he made by a Trade very prejudicial to the Nation in general; but that is no reason why the Publick should suffer by the continuance of it. May not the Runners of Wool as well complain, that the Legislature will not suffer them to carry it to France? But yet no one will contend, but that the Prohibition against exporting Wool, is absolutely necessary, in order to our supplying foreign Markets with our Manufactures.⁷⁵

The merchants who traded for French goods in the Caribbean were, in this author’s view, no better than the owlers of England and their commerce should be treated much the same. He further argued that the prohibition on exporting lumber and horses from British colonies to foreign possessions was as necessary as the one for molasses and rum, for surely they would smuggle the latter back in payment

⁷³ *American Weekly Mercury*, 3 Aug. 1732.

⁷⁴ *Importance of the Sugar Colonies*, 8.

⁷⁵ *Ibid.*, 10-11.

for the former if only one prohibition was enacted. He contended that “a permissive trade” in provisions from the north would “be an inlet to all the fraud imaginable, and destroy the Act, and your forfeitures and penalties will only be like scarecrows and pasteboard soldiers.”⁷⁶

Authors in support of the sugar position sometimes implied that Northern colonists were smugglers, and others stated so explicitly. All these publicists emphasized Northern colonists’ connection with the rise of French power in the Caribbean. The author of the pamphlet *Observations on the Case of the Northern Colonies* pointed to the source of the lumber which had supplied the French colonies as the king’s woods and that “some of the richest men in Boston have got their estates by exporting lumber, made from his Majesty’s pine-trees, for which in return, molasses, rum, and French silks,” were imported to the Northern colonies.⁷⁷ The Gentleman of Barbados, in a second pamphlet, denounced the commerce because it allowed the French to sell their molasses, which they previously had no use for “before this execrable trade between his Majesty’s Northern American colonies and the French sugar islands.”⁷⁸ It is also interesting to note that the Gentleman of Barbados referred to the Northern colonies as *American*, whereas the islands were the *British* sugar colonies. This distinction was likely deliberate and was not common in the literature on the subject. The Gentleman, moreover, also levelled one of the strongest criticisms at the Northern colonists; they traded with the enemy in time of war.

One of the sugar lobby’s most consistent claims was that the French had no market for their molasses or rum before the Northern colonies provided that vent. British authors claimed the French gave their molasses to their hogs or draft animals or otherwise had to throw it away. French colonists were prevented from producing and selling rum in any significant quantities because of the French protection of the domestic brandy industry. The Gentleman of Barbados argued that this was

⁷⁶ *Importance of the Sugar Colonies*, 16.

⁷⁷ *Observations on the Case of the Northern Colonies* (London, 1731), 30.

⁷⁸ Gentleman of Barbadoes, *The British Empire in America, Consider’d* (London, 1732), 12.

particularly true during the War of the Spanish Succession, when the “French sugar colonies were in a very low and despicable condition,” until “several clandestine traders from the British colonies, knowing the wants of the French sugar planters...fell into a trade with them, and supply’d them with all things necessary,” to increase production and expand their sugar plantations and sugar works.⁷⁹ To further clarify who the culprits were, which included the Irish in this case, he lamented that through the clandestine trade with British subjects, the French were able to found “many new sugar works; which they never could have done without the assistance of New England...and Ireland furnished them with beef, pork, herrings, and other provisions.”⁸⁰

The criticisms of Northern colonists and metropolitan portrayals of New England merchants as smugglers and dangerous subjects within the empire played out in the transatlantic press, as did many other notable episodes in the imperial smuggling crisis. As discussed in Chapter 1, colonial newspapers regularly reprinted stories from London and the European continent, creating a shared worldview for British subjects on both sides of the Atlantic. Colonists in the Americas knew about the growing problem of smuggling gangs in southeastern England and were aware of the reputation Kent and Sussex had as dens of smugglers. Needless to say, readers in the Northern colonies knew the weight that the smuggler label carried. When it was applied to them, authors in support of the Northern colonies and their commercial interests defended colonial merchants in print as strongly as they were criticized, but the characterization was difficult to erase. New England merchants, particularly from Boston, were viewed as smugglers from the beginning of the eighteenth century, as seen in Jeremiah Dummer’s defense of the colonies. Thus, New Englanders and their supporters often felt a need to challenge the negative British perception of the colonial merchant community.

⁷⁹ Gentleman of Barbadoes, *British Empire in America*, 14-15.

⁸⁰ *Ibid.*, 15.

This process is shown in an edition of the *New-England Weekly Journal*, which carried reprinted sections from the *Daily Post Boy* and the *Daily Journal*. The colonial newspaper printed letters found in the two London dailies, which contained strong criticisms of the Northern colonists by an author who claimed to live in the colonies and a response that decried the critiques and urged readers to ignore such damaging portrayals of fellow British subjects. The first author, apparently writing from Boston to the *Daily Post Boy*, detailed the development of manufactures in the colonies that competed with those of England and argued that “the people of New England in general are so intent on setting up manufactures; that their lands lie for the most part uncultivated, though capable of affording & producing all sorts of provisions in excessive plenty,” and they threatened to do so to the extent that they would no longer need Britain to supply anything.⁸¹ Even worse, he suggested, that a French family had been able to dominate the wool industry in Martha’s Vineyard, Nantucket Island, and Tarpaulin Cove on Naushon Island, and the family smuggled the wool to France in return for French manufactures. He further claimed that the head of this French family, named as Andrew F..I[Faneuil], had “the country-people there very much at his beck, and have chiefly by this pernicious trade so hurtful to Great Britain,” grown very wealthy.⁸² The author then turned to Massachusetts as a whole to make his strongest condemnation. He claimed, based on what he witnessed and other information he had, that there was “more clandestine trade carried on in this province, than on all the continent and all our islands beside; for it is scarce credible what quantities of French Goods are run in here. There are three pieces of French silk for one of English worn here.”⁸³ The criticism of New England colonists clearly went beyond a few smuggling merchants. The author painted the subjects of the New England colonies as disloyal through a preference for French garments over English and showed the inhabitants to be

⁸¹ *New-England Weekly Journal*, 17 Jul. 1732.

⁸² *Ibid*; Andrew Faneuil. The letter also mentions that he has set up business with his two nephews, Peter and Benjamin Faneuil Jr., the former inheriting Andrew Faneuil’s fortune and for whom Faneuil Hall in Boston is named.

⁸³ *Ibid*.

complicit in an extensive transatlantic smuggling trade. The popular acceptance of smuggling, which contemporaries saw on the coasts of Britain, seemed to be developing in the colonies as well.

The harsh criticisms contained in the *Daily Post Boy* letter prompted a response from an author who wrote to the *Daily Journal* to refute the claims he felt were unfair. He defended colonial manufactures, arguing that they did not threaten trade between the colonists and Britain, but he turned to the more pressing issue of the alleged smuggling trade. He stated that he was well informed that there was no significant commerce between France and New England, but he asked if there were “any clandestine or smuggling trade...must a whole country therefore be chargeable with the crime, any more than England or Scotland is answerable for what goods are run in Great Britain?”⁸⁴ He made an even more explicit connection to the ongoing smuggling crisis in Britain, asking rhetorically if Britain had her own strict laws against smuggling, which had proved ineffectual, though all of its subjects were not demeaned as smugglers. The author was incredulous that an inhabitant of those colonies would turn “informer (of false facts) against the whole country, to render them obnoxious.”⁸⁵

The author of the response letter clearly knew the impact that the stain of smuggling could have on a region. He closed his rebuttal with a final refutation of the New England preference for French silks. This was a topic with significant relevance in London, where there was a constant battle between purveyors of French and foreign fabrics and the English clothing industries. Many British commentators portrayed domestic textile production as the most important economic issue facing the British empire. Authors regularly argued that the decline of British textile industries would mean the decline of the empire; the suggestion that British colonists were potentially causing that decline was a powerful argument. In his response, the author of the letter to the *Daily Journal* wrote that the alleged colonial preference for French silks was “such a monstrous absurdity, abuse upon the country, and falsehood,

⁸⁴ *New-England Weekly Journal*, 17 Jul. 1732.

⁸⁵ *Ibid.*

that it can be contradicted by a cloud of witnesses.”⁸⁶ Regardless of the truth, the suggestion had been presented to the British reading public, immortalized in print and distributed among the middle and upper class in London. Just as economic writers had cast British sugar planters as opulent and self-interested, the supporters of the sugar planters had cast the colonists as Francophile smugglers. The latter portrayal ultimately far more damaging.

The initial letter in the *Daily Post Boy* may have been written by Jeremiah Dunbar, as the claims made therein were generally the same made to a Committee of the House of Commons in London in 1730. This came to the attention of the Massachusetts House of Representatives who called Dunbar before their own committee to see if he had indeed made these claims. The claims, his denial of many of them, and the reports of these events were printed in the *New-England Weekly Journal*. Again, these were the same claims that appeared in the previously mentioned letter, but there were a few distinctions that made his alleged testimony more concerning. He had apparently claimed that “most of the principal people in that country,” or the Northern colonies, were engaged in cutting down royal woods to trade to the French for their manufactures and that “some of the richest men in Boston have got their estates” by exporting that reserved lumber for “molasses sugar rum & French silks are imported from the French settlements, which silks are generally worn there.”⁸⁷ Clearly the Massachusetts assembly was concerned about this characterization and they noted that his testimony contained “sundry injurious restrictions and false insinuations on the people of this province their trade and business.”⁸⁸ After Dunbar denied some of the claims, such as the inhabitants of the Northern colonies having a proclivity for wearing French silks, witnesses who were present for his original testimony attested to him having made that claim, and the committee in Massachusetts proclaimed that “it notoriously appears, that the said Jeremiah Dunbar hath of set purpose & design, falsely &

⁸⁶ *New-England Weekly Journal*, 17 Jul. 1732.

⁸⁷ *New-England Weekly Journal*, 8 Jan. 1733.

⁸⁸ *Ibid.*

injuriously represented His Majesty's good subjects of New-England...intending thereby to obstruct & hinder them in their lawful trade & business, & unjustly expose them to the displeasure" of the House of Commons and to the British public.⁸⁹ However, Dunbar was not alone in his assessment of Northern colonists. The committee's actions could do nothing to affect the growing perception in London of Northern merchants as a group of smugglers whose actions, if left unrestricted, would diminish the value of Britain's colonial holdings and augment French power in the Americas. The Molasses Act was an attempt to prevent that from happening and was a clear imperial message that the commerce of the Northern colonies was secondary to that of the sugar colonies.

The passage of the Molasses Act was a huge success for the sugar planters as much as it was a frustration for Northern colonists who felt their second-tier status within the empire had been codified into law. However, it was immediately apparent that the law would not fully satisfy planters, even if it were strictly enforced. John Ashley, a sugar planter from Barbados, wrote *The Sugar Trade, with the Encumbrances thereon, Laid Open*, by October of 1733 and had it published in London the following year. The pamphlet called for two further forms of relief from Parliament that had been included in the many complaints and petitions from the sugar islands: allowing "the direct exportation of sugar from his Majesty's sugar plantations in America to all foreign markets," to combat French planters who had been granted such privileges by their government in 1726.⁹⁰ He also requested lower duties on sugars imported to Britain. Without these, he and many others who wrote in support of the sugar interests believed, the British West Indies would not be able to compete with French and Dutch islands.

Historians have suggested that the Act could have had a positive impact for the sugar planters if it were executed efficiently, despite John Ashley's plea for further assistance. John J. McCusker and Russell R. Menard argue that the Molasses Act "would have gone quite far toward accomplishing the

⁸⁹ *New-England Weekly Journal*, 8 Jan. 1733.

⁹⁰ John Ashley, *The Sugar Trade, with the Encumbrances thereon, Laid Open* (London, 1734), 7.

objectives of the sugar planters, but it was clearly neither enforced nor obeyed.”⁹¹ Thus, Sir John Barnard’s warning soon proved prophetic as a large smuggling trade developed, or rather, a significant trade in foreign molasses continued illegally. Barnard had pointed out that the duty was much too high, claiming figures that mirrored those of a succinct statement of the Northern interest in a pamphlet titled *The Case of the British Northern Colonies*. The author complained primarily about the duty on molasses, as opposed to those on sugar and rum, “which is the chief thing the Northern Colonies take” to fuel their rum distilling industry.⁹² The author complained that the duty was double the original cost of the molasses from foreign territories, which was obviously the intent as stated by Colonel Bladen. The author then joined Barnard in predicting the smuggling trade, noting that a similarly ill-conceived tax on foreign sugars imposed by the Barbadian assembly had created a smuggling trade on that island after 1715 and he suggested that “the same must follow, if this bill should pass with respect to the trade between the Northern Colonies and the Dutch and French settlements.”⁹³ These predictions became reality as the molasses trade continued relatively unabated, although the non-enforcement of the Molasses Act did not render it the complete non-factor that many historians have suggested.

As Theodore Draper argues, there was something buried in the evasions of the Molasses Act. There was implicit defiance in the continued trade and the refusal to pay duties. There was the real and perceived denial of Parliamentary authority in the smuggling trade carried on by the Northern colonists. There was a general lack of enforcement of the Act, though some duties were paid, and some seizures made throughout the decades it was in effect. The issue remained in the public eye due to the sugar planters’ consistent complaints. British sugar planters sought further redress and continued to vilify the Northern colonists. Authors regularly published pamphlets or submitted letters to newspapers, now

⁹¹ John J. McCusker and Russell R. Menard, *The Economy of British America, 1607-1789* (Chapel Hill: The University of North Carolina Press, 1985), 163.

⁹² *The Case of the British Northern Colonies* (London, 1733), 3.

⁹³ *Ibid.*, 2.

further supported in their complaints because the Northern colonists were trading with foreigners in contradiction to the Molasses Act. Interestingly, support of the Northern cause diminished in British print, though did not disappear altogether.

Authors who continued to write in support of the sugar colonies now thanked Parliament for their consideration, but sought the expanded relief that John Ashley had requested. After the law had taken effect, the Council of St. Christopher publicly thanked the government for relieving them from their poor condition, “to which they had been unhappily reduced by the narrow selfishness of some of our own fellow-subjects.”⁹⁴ They took every opportunity to portray the Northern colonists in this way, though they also turned their focus to the duties that they felt hindered their prosperity. A series of letters from “The Sugar Planters” were published in *The Daily Gazetteer* which kept the public eye on the apparent sugar crisis in the British West Indies. There were at least ten letters published throughout 1736, all of which restated and summarized the sugar lobby’s complaints. In the fifth letter, the sugar planters complained that “the people of New England, and other parts of that continent” continued to supply the French with provisions and specie in exchange for molasses and rum.⁹⁵ The planters followed this with a complaint of the duties which prevented them from competing with foreign molasses, but in the sixth letter they emphasized that their chief complaint was “the trade carried on to foreign sugar colonies in America from Ireland and his Majesty’s Northern Colonies,” against the laws that Parliament had enacted to secure the trade of the British sugar colonies.⁹⁶ In case these laws or the illegal acts of the Irish and Northern colonists were not clear, the authors listed the various Acts which were intended to protect their trade, but which had been ignored or largely unenforced. The sugar lobby ensured that the matter was a consistent feature of British print culture, continuously calling attention to the smuggling problem across the Atlantic.

⁹⁴ *Daily Courant*, 30 Mar. 1734.

⁹⁵ *Daily Gazetteer*, 19. Aug. 1736.

⁹⁶ *Daily Gazetteer*, 31 Aug. 1736.

Pamphlet literature, alongside newspaper coverage, continued to address the issues of the sugar industry. This print culture ensured that the British reading public would perceive the Northern colonies, New England in particular, as smugglers throughout the three-decade period the Molasses Act was in effect. John Ashley notably continued to publish on the topic with his *Memoirs and Considerations concerning the Trade and Revenues of the British colonies in America* in 1740, then a second part in 1743, followed by a supplement in 1744, which had its own second edition. His *Memoirs and Considerations*, which was republished alongside the second part in 1743, contained a section dedicated to “the evading the payment of the duties upon sugar, rum, and molasses imported into British dominions,” in which he claimed that it was “well known that they are notoriously evaded, and great quantities of foreign sugar rum, and molasses are clandestinely imported.”⁹⁷ He estimated that at least one million gallons of molasses were smuggled into the Northern colonies each year. Despite the further improvements made since the Molasses Act, such as the allowance for sugar islands to export directly to foreign markets beginning in 1739, the sugar islands still complained of various burdens on their trade.

The sugar planters’ many requests for relief, mostly featured in their original petitions, were restated and reprinted by various authors throughout the period of the Molasses Act. The smuggling trade of the Northern colonies was not the main focus of these, but it was always featured in connection with the rising French sugar industry. John Bennet, for example, published *Two Letters and Several Calculations on the Sugar Colonies and Trade* in 1738, which regularly referenced the commerce between the French sugar islands and the Northern colonies without attacking the colonists as smugglers. The same was true of an anonymous pamphlet published the same year, *The Miserable Case of the British Sugar Planters*, which was a call to allow the direct exportation of sugar to foreign markets.

⁹⁷ John Ashley, *Memoirs and Considerations concerning the Trade and Revenues of the British Colonies in America* (London, 1743), 12; *Ibid.*, 37.

Other authors, however, made sure to remind those in London that Northern colonists carried on a vast smuggling trade that was destroying the British sugar trade.

William Perrin took aim at the Northern colonies in his 1740 pamphlet, *The Present State of the British and French Sugar Colonies, and Our own Northern Colonies, Considered*. Perrin opened with a familiar critique of the smuggling trade, asserting the need for new laws to prevent “the pernicious practice of introducing French sugars into our Northern Colonies...which has been but too long carried on” under the guise of English sugar.⁹⁸ Perrin put the onus of smuggling on the merchants and masters of ships, suggesting that the only reason that the illegal trade could continue as it had was because sailors did not know the law or the reward for informing on infractions. Surely honest British sailors would not tolerate the illegal trade, or ship masters would be reluctant if their men knew the value of informing against them.⁹⁹ He believed that rewards for information, as used against domestic smugglers, was the surest way to diminish illegal trade. However, Perrin was not as forceful as others in his negative characterizations of the Northern colonies. He understood that they were a vital part of the empire, especially for the sugar colonies for whom he sought relief, and he expressed concern about the common narrative pushed by some in London, even in the House of Commons, that the Northern colonies desired independence. It was an idea suggested in the debates over the Molasses Act, but Perrin commented that it was a political distraction and was “malicious and absurd.”¹⁰⁰ He did, however, fear that the French would do everything in their power to encourage the smuggling trade to ensure that the Northern colonies became dependent on foreign sugar.

The Northern colonies were not without defenders in the pamphlet literature concerning the sugar trade. Archibald Kennedy, a Scottish-born colonist of New York and influential pamphleteer,

⁹⁸ William Perrin, *The Present State of the British and French Sugar Colonies, and our own Northern Colonies, Considered* (London, 1740), 2.

⁹⁹ Perrin, *Present State of the British and French Sugar Colonies*, 19.

¹⁰⁰ *Ibid.*, 28.

defended the colonial trade with foreign neighbors in a 1750 pamphlet. He both understated the trade, calling it “the little trade...we carry on with foreign neighbors,” and emphasized its importance by asserting that it was “what at present keeps life and soul together.”¹⁰¹ However, he complained that it could not be considered a proper branch of trade because it was subject to the whims of foreign governors and it was “so severely cramped by the late Sugar Act.”¹⁰² He argued that those encumbrances only served to give more of the sugar market to foreigners, rather than engross it to the British. Besides, the trade was good for Great Britain, he contended, because it was what allowed the Northern colonies to pay debts and make remittances on British manufactures.

The extensive smuggling trade in molasses was touched upon in various pamphlets, but it was not fully explored, or even focused upon in a way like the smuggling crisis in Britain. In part this was because smuggling in the colonies was not carried out in the same way. Large smuggling gangs did not dominate coastal regions as they did in Britain, though there is evidence of violent smuggling encounters. For example, there was an account from Boston in 1735 when Tide Surveyor John Blackburn was woken up in the middle of the night by an unknown person who claimed they were going to take him to a large store of smuggled French molasses. He was led into the street where “three other persons unknown to him (two of which together with himself were arm’d with clubs, and one of ‘em with a naked broadsword or cutlash) assaulted, beat and pursu’d” Blackburn and attempted “to have murder’d or maim’d him.”¹⁰³ There were repeated announcements of the incident in newspapers and calls, even from the Governor Jonathan Belcher, to capture the offenders who had apparently targeted Blackburn after he made a seizure of French molasses landed at Cohasset south of Boston.¹⁰⁴ This violence was in line with the smuggling violence of southern England, but it did not develop into the

¹⁰¹ Archibald Kennedy, *Observations on the Importance of the Northern Colonies under Proper Regulations* (New York, 1750), 8.

¹⁰² *Ibid.*

¹⁰³ *Boston Gazette*, 15 Dec. 1735.

¹⁰⁴ *Boston Evening-Post*, 5 Jan. 1736.

gang-dominated trade Britons experienced across the Atlantic. Nonetheless, the perception that the Northern colonists were smugglers continued to grow through persistent portrayals in London.

The British sugar planters continued to contribute to this perception in petitions for further redress. A group of merchants and planters presented a petition to the House of Commons in March 1751 to request the prohibition of trade that had been the original intention of the failed bills that eventually led to the Molasses Act. It was a scathing rebuke of the Northern colonists. The petitioners praised Parliament's wisdom in passing the Molasses Act as well as other Navigation Acts that sought to enrich the British Empire and strengthen its naval power, but argued that "the British traders in North America forgetting all ties of duty to his Majesty, the interest of their mother-country, and the reverence due to its laws, have, as though they thought themselves independent of Great Britain" carried on a smuggling trade with the French, Dutch, and other foreign nations.¹⁰⁵ The belief that any colony would naturally desire independence if its economic dependence was not ensured by effective legislation was a common understanding of many economists and it informed government policy. This assumption repeatedly surfaced in discussions over the trade of the Northern colonists, but the petitioners pointed to the trade with France as a sign of the Northern colonies' duplicity in addition to the fear of them becoming independent.

The petitioners went further than any others in their negative characterization of the smuggling subjects from the Northern colonies. They contended that the colonists must be in league with the French, otherwise one could not make sense of their continued support of foreign colonies. They argued that the British sugar colonies would come to ruin and the entire sugar trade would be taken from them "by the intrigues of foreigners, and the treachery of her own subjects."¹⁰⁶ As seen previously, some Britons believed that smuggling was a type of rebellion or treason against the crown, but these

¹⁰⁵ Leo F. Stock, ed., *Proceedings and Debates of the British Parliaments respecting North America*, vol. 5 (Washington, D.C.: Carnegie Institution of Washington, 1941), 461.

¹⁰⁶ Stock, *Proceedings and Debates*, vol. 5, 462.

petitioners stated it even more clearly. They claimed that the continued support Northern colonists showed the French, despite the laws in place and despite the languishing state of the British sugar colonies, could only mean that “the northern colonies are, in every branch of it, as the petitioners apprehend, the agents of France.”¹⁰⁷ The Molasses Act may not have been effective as a means to create revenue, or stop the molasses trade, but it created smugglers out of the colonists; it allowed for a vigorous attack on the colonists and for their detractors to characterize them as traitorous villains, rather than simply self-interested merchants. If nothing else, the Molasses Act produced a shift in discourse that further alienated the Northern colonists and fed into a more aggressive British West Indian condemnation of their trade.

Northern agents in London once again came to the defense of the colonies after this petition. Richard Partridge, colonial agent for Pennsylvania, appeared in Parliament a month after the damning petition to respond to the attacks. He detailed the profitability of the colonies to the empire through the purchase of manufactures and steady English commerce, which allowed the colonies to remit what they owed in the balance of trade. As to the accusations of disloyalty and treachery, he stated that they “have given the most incontestable proofs of their zeal and loyalty to the King’s royal person and government” through military service and general defense against the enemies of Britain.¹⁰⁸ However, he continued, they were “in want, for their necessary and daily sustenance, and for many other purposes, of large quantities of melasses, sugar, and rum, which the British sugar islanders cannot supply them with, in any portion to their necessities.”¹⁰⁹ On the other hand, the sugar planters had immense profits with which they lived in opulence, and only wished to monopolize the sugar trade to

¹⁰⁷ Stock, *Proceedings and Debates*, 462.

¹⁰⁸ *Ibid.*, 476.

¹⁰⁹ *Ibid.*

further enhance their wealth. Partridge minimized the charge of smuggling, like Kennedy's pamphlet, suggesting that "every community may afford a few bad men."¹¹⁰

The petitions of the British sugar planters were presented to a Parliament that was much less receptive to their plight than in the early 1730s, though they still had strong influence. In a chapter concerned with the illicit commerce in the West Indies from 1748 to 1763, Frank Wesley Pitman argues "it was clear that, by the middle of the eighteenth century, the British government could not be persuaded by the planting interest to take any further step to enrich the West Indies to the detriment of the Northern Colonies."¹¹¹ When the British government actively stepped back into the commercial competition in the colonial world, it would no longer be as arbiter between north and south, but rather as a belligerent. The Seven Years' War soon broke out and added strain to every aspect of life throughout much of the empire, especially changing the dynamics of colonial economies and forcing a reevaluation of law enforcement.

The outbreak of conflict in 1754 in the American theater did little if anything to slow the illicit flow of foreign molasses. Official records in Boston recorded 384 hogsheads of molasses imported for 1754 and 1755, but the 63 distilleries located there would have needed approximately 40,000 hogsheads to continue operation, as they indeed did.¹¹² The continued operation of the distilleries of New England was not the only indication of continued molasses smuggling in the colonies during the Seven Years' War. Justin DiVirgilio has pinpointed the construction of the Douw-Quackenbush still-house, "a large-scale rum distillery" in Albany to the years 1758-1759, while New York was a battleground for control of the borders between French and British territories.¹¹³ Elisha Brown, future

¹¹⁰ Stock, *Proceedings and Debates*, 477.

¹¹¹ Frank Wesley Pitman, *The Development of the British West Indies, 1700-1763* (Hamden: Archon Books, 1967), 301.

¹¹² Bernard Bailyn, *Atlantic History: Concepts and Contours* (Cambridge: Harvard University Press, 2005), 90.

¹¹³ Justin DiVirgilio, "Rum Punch and Cultural Revolution: The Impact of the Seven Years' War in Albany," *New York History* 86, no. 4 (Fall 2005): 435.

Deputy Governor of Rhode Island, published a complaint that Governor Stephen Hopkins was issuing flags of truce, with which ships were trading with the French islands and supplying the enemy with provisions. He even pointed to newspaper reports stating that Hopkins's "own sons are concerned in that pernicious trade."¹¹⁴ Clearly molasses and other smuggling remained active despite the war between the countries of the producers and buyers.

As the war was expanding in 1757, the economic writer Malachy Postlethwayt published an extensive treatise, *Britain's Commercial Interest Explained and Improved*, in which he delivered one of the most neutral accounts of the sugar colonies' complaints about the Northern colonies. Instead of siding with either, he criticized both regions. The sugar planters, he asserted, were corrupted by foreign traders, who made them "the destructive instruments of introducing foreign sugars, under the denomination and disguise of the British," thus carrying on a smuggling trade of their own.¹¹⁵ The Northern colonies, too, were corrupted by foreign merchants. He argued "between both," that is, Northern colonists and the British sugar islands, "the national enemy [France] has been enriched and aggrandized."¹¹⁶ The British government was also to blame in Postlethwayt's estimation. He contended that the policy of Britain could have encouraged the British sugar islands to produce the requisite molasses and take full advantage of their land and available markets as the French had done.¹¹⁷ Trade with the enemy during wartime, however, was something closer to treason than the smuggling that was carried on during peacetime.

Trading with the enemy while the British and French were at war was a consistent concern in Europe as the smugglers on Britain's coasts kept a lively trade with their southern neighbors. The situation in the colonies was equally alarming. Douglas Leach suggests illicit trade between the Northern

¹¹⁴ Elisha Brown, *Reflections on the Present State of Affairs* (Newport, 1759), 1.

¹¹⁵ Malachy Postlethwayt, *Britain's Commercial Interest Explained and Improved*, vol. 1 (London, 1757), 493.

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*, 494.

colonists and the French likely “reached its peak in 1759 to 1760” and that it was a great source of strain between colonists and British administrators.¹¹⁸ Historian Thomas M. Truxes points to a slightly later peak, arguing that the early 1760s “were a high-water mark in the history of trading with the enemy,” in his study of colonial New York’s wartime smuggling.¹¹⁹ Leach further comments that the continuous smuggling during the war “was, from the perspective of the British professional armed forces, a shameful stain.”¹²⁰ It was not only a private feeling of the armed forces, however, as it was made public by various announcements, such as one appearing in the *Boston Evening-Post*. William Pitt the Elder released a letter from Whitehall that noted the Royal Navy’s disgust at the “illegal, and most pernicious trade, carried on by the King’s subjects in North America, and the West Indies, as well to the French islands as to the French settlements on the continent of America.”¹²¹ The stain of smuggling was harmful to the relationship between metropole and colony, made worse by the intensity and expense of the war.

Thomas Truxes examines smuggling from New York City during the war and shows that illegal trade influenced British policy for the province at war’s end. He argues that the London government saw the smuggling colonists “as unpatriotic, even perverse.”¹²² Truxes further pinpoints a shift in the feelings of London toward the colonies after a report and subsequent trials in New York involving a large number of New York City smugglers in the early 1760s. The Custom House of New York even published a series of notices in newspapers warning residents of this growing evil, asking for good citizens to help combat illegal trade. One notice claimed that it “is notoriously known; and all for the sake of enriching a few smugglers; which together with that of supplying our enemies with provisions, will be an eternal reproach to our country.”¹²³ The notice closed by calling on the people of New York, suggesting that “no

¹¹⁸ Leach, *Roots of Conflict*, 162.

¹¹⁹ Thomas M. Truxes, *Defying Empire: Trading with the Enemy in Colonial New York* (New Haven: Yale University Press, 2008), 200.

¹²⁰ *Ibid.*

¹²¹ *Boston Evening-Post*, 1 Dec. 1760; See also *Boston Gazette*, 1 Dec. 1760; *New-York Mercury*, 1 Dec. 1760.

¹²² Truxes, *Defying Empire*, 200.

¹²³ *New-York Gazette*, 24 Nov. 1764.

good man therefore, nor good citizen, it is to be hoped, will hesitate in giving all discouragement in his power, to such ignominious practices.”¹²⁴ The negative perception of the colonists and the hard line Parliament took with them were certainly exacerbated by these events, but the shift had already begun. The colonial smugglers were just another outbreak of the smuggling disease, and the British government would attempt to cure it with many policies that had already been applied to domestic smugglers.

The process of applying the tactics of the domestic fight against smuggling to the colonies had begun before the end of the seventeenth century. In 1696 Parliament enacted “a comprehensive body of customs enforcement law for America which aimed to equip the customs organization there with broadly the same enforcement powers as in England,” though with the distinction that the judicial process regarding condemnation of seized property would be handled by courts of admiralty instead of common law courts and, thus, jury trials.¹²⁵ This would be a source of consternation for colonists as proceedings were eventually held at the Vice Admiralty court in Halifax, established by the Currency Act of 1764, causing potential financial strain for any merchant who had goods unjustly seized. While the Navigation Acts regulated and directed the colonial economy, the customs service in America was left with the difficult task of enforcing it. As seen with the history of the Molasses Act, this proved too difficult a task in many ways. The continued illegal trade during the Seven Years’ War led to an increased concern regarding enforcement.

The British government began issuing writs of assistance in the colonies to pursue supposed smugglers. Colonial writs of assistance were made famous by James Otis’s case against them in Massachusetts. Writs of assistance, as described earlier, were general warrants that allowed an official to enlist the help of various officers to break into and search buildings and containers under the suspicion of smuggled goods hidden therein. First issued in the colonies in 1755 to Charles Paxton,

¹²⁴ *New-York Gazette*, 24 Nov. 1764.

¹²⁵ M. H. Smith, *The Writs of Assistance Case* (Berkeley: University of California Press, 1978), 14.

notorious to colonists as the most active customs officer in New England, these writs became a symbol of the British government's crusade against Northern commerce. These expanded search powers led to an even more concerted public defense by merchants against their characterization as smugglers. Historian M. H. Smith notes that the "'fair trader,' protesting his innocence and abhorrence of smuggling, was to become a familiar figure in the Boston agitations of the later 1750s and early '60s."¹²⁶ An early version of this appeared in 1756 and was reprinted in 1761 in which forty-three merchants gave public notice that they would report any knowledge of smuggling that came to them within a six month period.¹²⁷ A report in the *Boston Gazette* from 1761, written by one of these "fair traders" complained that "we are watched with the utmost severity—private informers, the disgrace of civil society, are multiplied and paid at our own cost," and he further lamented that writs of assistance were given to customs officers, "who were tho't by many persons, to have had full power over us before."¹²⁸ Another colonist wrote a letter to the *Boston Gazette* which noted that he had been asked at various times to assist an officer with general warrants, but expressed worry about the legality of those actions and provided a hypothetical situation where Charles Paxton commanded him "to assist him in breaking open a Freeman's house," which he would have to do at his own risk.¹²⁹ Unsurprisingly, the general warrants produced disquiet and defiance in the colonies, but more actions against the smugglers brought greater protest.

In March 1763, just one month after the official end to the Seven Years' War, George Grenville, as First Lord of the Admiralty, shortly thereafter becoming Chancellor of the Exchequer and Prime Minister of Great Britain, sponsored a bill that transferred smuggling trials in the colonies to the jurisdiction of the vice-admiralty courts and increased the power wielded by British warships to suppress

¹²⁶ Smith, *Writs of Assistance*, 156.

¹²⁷ *Boston Evening-Post*, 2 Feb. 1761.

¹²⁸ *Boston Gazette*, 7 Dec. 1761.

¹²⁹ *Boston Gazette*, 22 Feb. 1762.

the illegal trade that seemed to proliferate during the war.¹³⁰ Previously, vice-admiralty courts did not handle criminal charges for smugglers. These new regulations were printed in colonial newspapers and colonists were made aware that their perceived penchant for smuggling was now receiving a more sustained focus from the imperial government.¹³¹ Later that year, the Commissioners of the Treasury sent a representation of their actions and intentions to the Privy Council, which revealed the extent to which the initial dispute between West Indian sugar planters and Northern merchants had transformed into one between the government and smugglers.

The account delivered to the Privy Council was an outright condemnation of the Northern colonies. The sugar colonies, the original instigators of the failed Molasses Act and the ones for whom the relief was intended, were not even mentioned in the report. This was not due to decline in their general influence in London, as historian Michael Kammen asserts “the West Indian interest perhaps achieved its maximum strength during the 1760s.”¹³² Rather, it represented the development of the British government’s antagonistic ideology toward the Northern colonies during this period of imperial restructuring and British officials would use the experience of the Molasses Act as a cause to subjugate the colonies to Parliamentary authority, even if it meant misrepresenting the original intent of the law. The Treasury report complained that “through neglect, connivance and fraud, not only the revenue is impaired, but the commerce of the colonies is diverted from its natural course and the salutary provisions of many wise laws to secure it to the Mother Country are in great measure defeated.”¹³³ The statement

¹³⁰ Johnson, “Sugar Act,” 508.

¹³¹ See *Boston News-Letter*, 22 Sept. 1763; *Newport Mercury*, 26 Sept. 1763; *Providence Gazette*, 1 Oct. 1763; *Pennsylvania Gazette*, 6 Oct. 1763; *Pennsylvania Journal and Weekly Advertiser*, 6 Oct. 1763; *New-York Gazette*, 10 Oct. 1763.

¹³² Michael Kammen, *Empire and Interest: The American Colonies and the Politics of Mercantilism* (Philadelphia: J.B. Lippincott Company, 1970), 103.

¹³³ James Munro, ed., *Acts of the Privy Council of England*, Colonial Series, vol. 4 (London: His Majesty’s Stationary Office, 1911), 569.

shows an intentional misrepresentation of the Act, which was not intended to create significant revenue, but rather to restrict the trade between the Northern colonies and the foreign sugar islands.

Historian Albert Southwick correctly saw the Molasses Act as a source of precedents, if not as a successful law.¹³⁴ However, he failed to develop one of the most important precedents of the Act. The Treasury report in question revealed that it served as the precedent for the shift in imperial perceptions of the colonies and government ideology toward colonial policy, pitting the British government against its Northern subjects. The Privy Council gave further orders to the governors of the colonies “to make the suppression of clandestine and prohibited trade...the constant and immediate objects of their care,” to which end the customs officers would be given “protection and support,” against unruly colonists.¹³⁵ The threat of force did not end with the phrase “protection and support.” The Privy Council reasoned, in order to properly carry out the laws set forth from England, that civil and military officers should be “strictly commanded to give their assistance upon all proper occasions” and, moreover, that “the Commanders in Chief of Your Majesty’s ships and troops in America and the West Indies,” should use “such a disposition of the force under their commands,” in order to suppress “these dangerous practices” and protect against “the violence of any desperate and lawless persons.”¹³⁶ Military intervention was regularly employed against domestic smugglers, and now it would be applied to the colonies, showing the resolve of the British government of escalating the fight against smuggling. Many colonists viewed the wave of policies with fear and anger, some pointing to the Molasses Act as an unfair policy that favored the sugar islands over the Northern colonies and unnecessarily made smugglers out of honest British subjects. Thus, it was an unfair label, a criminal characterization applied

¹³⁴ Albert Southwick, “The Molasses Act—Source of Precedents,” *The William and Mary Quarterly* 8, no. 3 (July 1951): 389-405.

¹³⁵ Munro, *Acts of the Privy Council*, Colonial, 571.

¹³⁶ *Ibid.*

to an entire region, that irrevocably damaged the relationship between Britain and her Northern colonies and which now informed the series of policies against them.

This viewpoint was expressed in length in a letter published in the *Boston Evening-Post* in response to Acts passed in 1763. The author opened the letter by noting the “great commotion the maritime towns are thrown into, by the present juncture of affairs,” which referred to the laws passed regarding colonial trade.¹³⁷ He complained of several Acts that hindered colonial trade, but turned his attention to the Molasses Act and its consequence of staining a significant branch of colonial commerce with the label of a smuggling trade:

The sugar act has from its first publication been adjudged so unnatural, that hardly any attempts have been made to carry it into execution. It has in short been esteemed an absolute prohibition of trade, and has therefore been neglected, or improv'd to bad purposes. There is no one error in a commercial nation so fruitful of mischief as making acts and regulations oppressive to trade. This—opens a door to corruption in offices. This—introduces a looseness in morals. This—destroys the reverence and regard for oaths, on which government so much depends. This—occasions a disregard to those acts of trade which are calculated for its real benefit. This—entirely destroys the distinction which ought invariably to be preserved in all trading communities, between a merchant and a smuggler. But the sugar act has thrown down all distinction: Before that was publish'd, a merchant disdain'd to associate with the unfair trader.¹³⁸

Clearly the view from Massachusetts was that the Molasses Act, commonly called the Sugar Act at the time, had made smugglers of honest men to the point that the label lost meaning in the colonies.

Colonists did, however, understand that the stigma it carried was serious in London and their portrayal in the metropole had made them more resistant to imperial trade regulations. On the heels of this, the customs service in America announced its intentions to be more vigorous in the execution of existing laws. The coordinated announcements appeared in various colonial newspapers from the custom houses of numerous ports in the northeast, including Boston, New York, Salem, Falmouth, New London,

¹³⁷ *Boston Evening-Post*, 21 Nov. 1763; The sentiments of this author were printed in London as well, *Public Advertiser*, 3 Feb. 1764.

¹³⁸ *Boston Evening-Post*, 21 Nov. 1763.

New Haven, Newport, Halifax, Perth Amboy, and Piscataqua.¹³⁹ Colonists like the letter writer to the *Boston Evening-Post* believed that colonists were made into smugglers and now the British government was punishing them for an unfair label in a sweeping attack of legislation and increased enforcement.

The concern that the stain of smuggling created unfair policies and prevented proper redress from Parliament was not limited to the Northern colonists. While Kent and Sussex were perceived as lawless regions dominated by smugglers, there were other areas that equally concerned the British government. Two of the most notable were the Isle of Man and the Channel Islands, Guernsey in particular. These islands were well suited to smuggling, both for their locations and the special arrangements they had regarding customs collection. Guernsey, Jersey, Alderney, and several smaller islands were situated just off the coast of Normandy in France and held special relationships with the crown, which included an almost complete lack of customs enforcement, stemming from a wartime compromise between the Privy Council and the islanders in 1709.¹⁴⁰ The channel islanders used their advantageous location and lack of customs enforcement to turn the islands into smuggling entrepôts where French brandy and gin could enter the English market, often in exchange for American tobacco.¹⁴¹ Authors seized on this and characterized the islands as being infested with smugglers, much like the portrayal of the Northern colonies, and one author wrote to the *Public Advertiser* to address that perception. He complained that a letter writer had sent in “reflections on the inhabitants, which are as scandalous and odious, as they are false and malicious.”¹⁴² Sure, he admitted, there were merchants who sold goods to smugglers, but until there were no smugglers on the coasts of England there would be merchants to sell to them. He further expressed concern that the letter to which he responded called

¹³⁹ *Boston Post-Boy*, 2 Jan. 1764; *Boston Evening-Post*, 9 Jan. 1764; *Boston News-Letter*, 12 Jan. 1764; *New-York Gazette*, 16 Jan. 1764; *Connecticut Gazette*, 20 Jan. 1764; *Newport Mercury*, 6 Feb. 1764.

¹⁴⁰ A.G. Jamieson, ed., *A People of the Sea: The Maritime History of the Channel Islands* (London: Methuen & Co., 1986), 204.

¹⁴¹ Muskett, “English Smuggling in the Eighteenth Century,” 91.

¹⁴² *Public Advertiser*, 26 Nov. 1760.

for “ample and public satisfaction,” from the people of Guernsey, whom he defended as “a brave and loyal people.”¹⁴³ There were those on the Isle of Man who faced the similar accusations.

The Isle of Man was situated similarly, both geographically and politically. The island is in the Irish Sea with easy access to the coasts of Ireland and Britain. If customs enforcement were the same for the Isle of Man as it was in the large ports of Britain, it may not have developed into the smuggling entrepot it became, but the customs duties on the island were the prerogative of the Earls of Derby until 1736, when the ownership and rights passed to the Dukes of Atholl. The Lords who collected the customs for the island never did so vigorously and the Manxmen became known for smuggling. Once goods were taken to the Isle of Man, they could easily be run to shore in Scotland, West England, Ireland, and Wales. The crown attempted to purchase the island for years, finally succeeding in 1765 after the Duke of Atholl died the previous year. The stain of smuggling, however, was already on the island. A letter to the editor of *Lloyd’s Evening Post*, noted that the Isle of Man had “for some time past, laboured under the infamous character of being a nest of fugitives and smugglers, that scarce deserved the protection of government.”¹⁴⁴ The author similarly admits that there was a significant smuggling trade, but as many others had before him, asked if an entire population should be defamed for the sins of the few. Another author from the Isle of man had similarly complained of the common perception of his people, stating that they needed redress but “we are afraid to ask favours of those [Parliament] who have had reason to consider us in the light of smugglers; a character both odious and infamous in itself.”¹⁴⁵ The perception that a region was infested by smugglers carried real consequences, both in the actions taken by Parliament and the way inhabitants of these regions viewed their place within the empire. This only exacerbated the separation between the colonies and the metropole. The colonies were already portrayed negatively and were geographically distant with a tradition of self-governance.

¹⁴³ *Public Advertiser*, 26 Nov. 1760.

¹⁴⁴ *Lloyd’s Evening Post*, 24-26 Jul. 1765.

¹⁴⁵ *Lloyd’s Evening Post*, 11-14 Apr. 1766.

Kent and Sussex were counties within England, and although there were special considerations for their smuggling problems, they were not subject to the special legislation that the colonists feared.

The Sugar Act of 1764, also referred to as the Revenue Act, was proposed in Parliament as a revision of the Molasses Act. Historians Ian Christie and Benjamin Labaree argue that calling it the Revenue Act, or even Sugar Act, “tends to obscure its essential nature” as an extension of the Navigation Acts, as was its precedent in 1733.¹⁴⁶ The clauses calling for revenue were only a minor component in the forty-seven-clause Act, which, as evidenced by the Treasury report, was only part of the official plan of imperial restructuring and regulation of the colonies. The spirited debates that preceded the passage of the Molasses Act were absent leading up to its successor. Allen Johnson describes them as “languid,” asserting that “without influential men to lead the way, there was no one to object.”¹⁴⁷ Strong opposition, like that of the Patriot Whigs against Walpole in the 1730s, was missing. Severe laws against smuggling passed through Parliament without significant resistance. The custom of the House of Commons to refuse petitions on revenue bills again prevailed, leaving the colonies with little recourse to argue their case. It is apparent, however, that colonial opposition would have done little to sway Parliament. There was a concerted effort in London to stamp out colonial smuggling, and the Sugar Act would be the next addition to the legal infrastructure to do that.

The Sugar Act, enacted into law in April 1764, lowered the duty on foreign molasses importation to 3d per gallon, half of the original, but there was still extensive resistance to additional measures to ensure a stricter enforcement. Interestingly, historian Richard Trethewey has shown that “the burden of the Sugar Act was clearly not of such great proportions that it threatened the prosperity of the colonies,” but the issue had transformed beyond that.¹⁴⁸ Lobbyists and publicists were not shy about

¹⁴⁶ Ian R. Christie and Benjamin W. Labaree, *Empire or Independence 1760-1776: A British-American Dialogue on the Coming of the American Revolution* (New York: W.W. Norton & Company Inc., 1977), 34.

¹⁴⁷ Johnson, “Passage of the Sugar Act,” 514.

¹⁴⁸ Richard Trethewey, “The Economic Burden of the Sugar Act,” *The American Economist* 13, no. 1 (Spring 1969), 70.

overstating their case to gain attention or a Parliamentary hearing. The same economic millenarianism played out in most commercial treatises concerning the eighteenth-century British empire and numerous branches of the economy were seemingly in constant danger of collapse, according to various interest groups.¹⁴⁹ The Act was abhorrent to the colonists for more than its tax, but because they had repeatedly been denied a voice under Parliamentary custom, and the government policy surrounding the push for taxes on foreign goods made clear that they had been cast as smugglers in this imperial drama.

Administrators in the colonies were concerned about the negative colonial sentiment to new Acts and plans for strict enforcement. In December 1763, Francis Bernard, Governor of Massachusetts, wrote a letter to John Pownall, Secretary to the Board of Trade and later Undersecretary of State for the American Department, warning that “the merchants of this town [Boston] & the whole province are under the greatest alarm that the Melasses Act will be continued & strictly executed.”¹⁵⁰ Similarly, Stephen Hopkins, Governor of Rhode Island and Providence, wrote that “appointing better methods and creating other officers” would prove to be a mistake, noting that there was already significant corruption in the customs service in the colonies.¹⁵¹ Hopkins confirmed Sir John Barnard’s fears from the debates on the Molasses Act, noting that a smuggling trade had developed from the Act. Hopkins placed the blame, as others did in the 1730s, on the wealthy self-interested planters of the British West Indies. He argued that the restriction of the Northern colonies’ trade would not benefit British sugar planters, rather it only served “to shew forth a wanton display of the opulence and influence of a few overgrown

¹⁴⁹ For examples on the coming renewal of the Molasses Act, which was remade into the Sugar Act, see *Reasons against the Renewal of the Sugar Act* (Boston, 1764); *Considerations upon the Act of Parliament* (Boston, 1764).

¹⁵⁰ Francis Bernard to John Pownall 30 December 1763 in *The Papers of Francis Bernard: Governor of Colonial Massachusetts, 1760-69*, Vol. 1 (Boston: The Colonial Society of Massachusetts, 2007), 451; Franklin B. Wickwire, “John Pownall and British Colonial Policy,” *The William and Mary Quarterly* 20, Third Series, no. 4 (October 1963), 547; John Pownall was an integral part of the taxation policies for the colonies and later advised the lawyer who drafted the Stamp Act.

¹⁵¹ Stephen Hopkins, *An Essay on the Trade of the Northern Colonies of Great Britain in North America* (Philadelphia, 1764), 21.

West-India Estates.”¹⁵² Of the smuggling trade, Hopkins admitted that the Molasses Act had produced “many and great mischiefs and disadvantages, as well as corrupt and scandalous practices...in all the English colonies: The merchants, unwilling to quit a trade, which was in a great measure the foundation of their whole circle of commerce, have gone into many illicit methods” to continue it.¹⁵³ In his view, the Northern colonists had turned to smuggling, but they had no other recourse. He suggested the possibility of a half-pence duty, but the issue was a forgone conclusion. The Northern colonies were to be subjected to the will of Parliament, and their extensive smuggling trade would be suppressed like that of Britain.

Outraged colonists sent their grievances to London where they appeared in public prints. Many continued to argue against what they felt was an unfair characterization of their commerce as a smuggling trade. A letter from New York printed in the *Public Advertiser*, reveals the position of some colonists on the new measures to stop smuggling:

The Commercial Regulations which are practiced in this Place appear so utterly irreconcilable to sound Politicks, that one would be apt to think the Destruction of our Trade, both Foreign and Domestick, was their ultimate Point of View: Every little Master and Commander, if but only of a Sloop of 14 Guns, is appointed by Licence to detect Smugglers; and when in this pretended Exercise of his Authority on our defenceless Coasters, he assumes all the Importance of a Commissioner of the Customs. After all, I believe it would puzzle any reasonable Person to define properly what Smuggling is in North-America.¹⁵⁴

Colonists bridled at the application of the navy and privateers against their trade, something they never accepted as a legitimate means of enforcement. The smugglers with which they were familiar were the violent and lawless smuggling gangs of England that appeared in newspapers and pamphlets throughout the past century. Now they witnessed their commerce harassed by the same heavy-handed means used to suppress those infamous rogues.

¹⁵² Hopkins, *Essay on the Trade of the Northern Colonies*, 18.

¹⁵³ *Ibid.*, 20.

¹⁵⁴ *Public Advertiser*, 3 Oct. 1764.

The Stamp Act and later Parliamentary regulations have received far more historical attention than the Revenue Act. The Molasses Act, as noted, received far less attention than its successor. However, the colonists' defiance of the Molasses Act produced new resolve in the British government. British officials were determined to eliminate smuggling and restore the economic dependence of the Northern colonies while generating revenue. The Northern colonists felt that their commerce had been criminalized for the benefit of wealthy planters and now the government was going to treat them as a region of smugglers. Northern colonists always believed their trade with the foreign sugar islands was both legitimate and necessary. The suggestion that a reasonable person could not define smuggling in the colonies was an expression of that belief. Defenders of the Northern colonies admitted that detrimental smuggling trades should be suppressed, but the actions against the molasses trade were imprudent. A letter purportedly from an Englishman living in North America summed up these feelings. The Englishman suggested that "putting a stop to the pernicious practice of smuggling was a just measure, which every honest man applauds."¹⁵⁵ However, he contended the Acts in place had overstepped by restricting trade to the point where they could not make their payments to England and could not prosper as before. Furthermore, he complained that "all commanders of his Majesty's ships have deputations from the Courts of the Admiralty; in virtue of which, if they judge they have any cause for suspicion, they can seize a vessel at any of the islands, or in any part of North-America, carry her to Halifax," and try the case in the vice-admiralty court.¹⁵⁶ If merchants were cleared of the charges, he lamented that they would receive one shilling in damages for their trouble. There would be honest merchants taken by the British Navy, their own property transferred to a court far from their residence, and either condemned without a jury or released at a significant loss for an unjust seizure. This was the situation as perceived by many colonists. The outrage only rose as more attempts to bring the colonists

¹⁵⁵ *Public Ledger*, 10 Sept. 1765.

¹⁵⁶ *Ibid.*

into submission issued from Parliament. In the furor over the Stamp Act, many still recognized that controversy over smuggling was one of the key issues that began the conflict.

Two notable examples appeared in the *Public Advertiser* at the beginning of 1766. The first was a strong rebuke of the colonists and their presumed right to defy Acts of Parliament. An anonymous author suggested that the colonists had “trampled on” the Acts of Trade “in the most barefaced and daring manner for these last sixty or seventy years,” but more than ever since the Peace of Utrecht, especially with foreign sugar colonies, leading to the Molasses Act.¹⁵⁷ That Act, he complained, was evaded and the government defrauded £500,000 a year and “the Custom-house Officers have been intimidated from demanding it,” were frequently bribed by smugglers, and “any merchant there who is not a smuggler, is pointed at and singled out as a fool.”¹⁵⁸ Worse still, the author argued that in addition to smuggling in foreign molasses, Northern colonists distilled that into rum then smuggled it into Britain by way of the Isle of Man, Ireland, and the Channel Islands. Northern colonists smuggled to the continent, Great Britain, and anywhere they could set up business for themselves at the detriment of the empire. Northern colonists were, simply put, all smugglers or subjects helpless to stop the immense flow illegal trade.

In a response to the hard line many proposed against the colonies, possibly in response to the above letter, an author signed Pacificus sent a letter to the *Public Advertiser* that offered a harder line than any before.¹⁵⁹ The satirical letter called for the absolute subjugation of the colonies, as was the right of the conqueror “to establish what laws he pleases, however contrary to the laws of nature, and the common rights of mankind.”¹⁶⁰ Pacificus further suggested that Scottish troops, or rather Roman Catholics if possible, should be sent to quell any resistance, but the military already stationed there

¹⁵⁷ *Public Advertiser*, 13 Jan. 1766.

¹⁵⁸ *Ibid.*

¹⁵⁹ The letter was possibly, perhaps likely, written by Benjamin Franklin. See Verner W. Crane, ed., *Benjamin Franklin's Letters to the Press 1758-1775* (Chapel Hill: University of North Carolina Press, 1950), 54-57.

¹⁶⁰ *Public Advertiser*, 27 Jan. 1766.

should not take part because it would be unbecoming for them to kill their fellow subjects. He also acknowledged the smuggling was one of the key priorities and all necessary measures should be taken to suppress it in the quest to crush the resistance in the colonies:

I would propose, that all the Capitals of the several Provinces should be burnt to the Ground, and that they cut the Throats of all the Inhabitants, Men, Women, and Children, and scalp them, to serve as an Example; that all the Shipping should be destroyed, which will effectually prevent Smuggling, and save the Expence of Guarda Costas.¹⁶¹

The author of the satirical letter ridiculed the drastic measures taken and proposed by many in London. Why not destroy the people as well as the economy, if total submission was the final goal? The final jab of calling the Royal Navy “guarda costas” further insinuated that the British government had become as tyrannical in their pursuit to stop smuggling as the absolute rulers of Spain that had caused so much grief to the British decades earlier.

Another letter to the *Public Advertiser*, published two days after the letter from Pacificus, further mocked those who promoted a hard line against the colonists. The author asserted that the trade of the colonies faced disaster from the policies enacted by George Grenville. Despite the obvious truth of their situation, as he portrayed it, there was a strong belief in London, especially by Grenville and his supporters, that the colonists were overreacting. The author intimated that the positions of these detractors stemmed from the perception of colonists as smugglers:

What is it?—Why the Colonies are incensed that their illicit Trade is cut off by Regulations, which are called wise and salutary, and Smuggling prevented—*Hinc illæ lacrymæ*. A Charge in itself so glaringly weak and absurd, and which supposes all our petitioning Merchants and Manufacturers to be Smugglers, cannot be thought to deserve a serious Confutation.¹⁶²

He further argued that Parliament had first silenced colonial opposition by refusing to hear their petitions and now ignored their complaints, obviously implying that the Commons believed these were the words of smugglers and criminals.

¹⁶¹ *Public Advertiser*, 27 Jan. 1766.

¹⁶² *Public Advertiser*, 28 Jan. 1766.

John Adams suggested that molasses was an essential ingredient to American Independence, and from that reasoning it is clear that he believed smuggling was essential to that process. This fact has long been accepted, but the smuggler in British print culture, the print culture that shaped the worldview of metropole and colony alike, has not hitherto been fully explored. The colonists were already portrayed as something less than Englishmen, a British subject by birth but lower than a Briton. Added to that they were vilified for their trade, cast as smugglers against the empire. In a retrospective letter of 1818, Adams wrote to Hezekiah Niles that “the Revolution was in the minds and hearts of the people,” long before the outbreak of war.¹⁶³ Northern colonists’ belief that their second-tier status in the empire had been enshrined in law and their vital trade had been criminalized was a critical component to the spirit of resistance to Parliament in revolutionary era. Adams referenced the attempt to create a revenue by enforcing the Molasses Act and other Acts of Trade, “Which had lain a dead letter, unexecuted for half a century,” some of them for more, and it was this action, against a region of supposed smugglers, that “produced, in 1760 and 1761, an awakening and a revival of American principles and feelings, with an enthusiasm which went on increasing till, in 1775, it burst out in open violence, hostility, and fury.”¹⁶⁴ The Act that Martin Bladen intended to prevent the colonies from rising to an independency eventually contributed to that very thing.

¹⁶³ John Adams to Hezekiah Niles, 13 Feb. 1818, *The Works of John Adams, Second President of the United States: with a Life of the Author, Notes and Illustrations, by his Grandson Charles Francis Adams* (Boston: Little, Brown and Co., 1856). 10 volumes. Vol. 10. https://oll.libertyfund.org/title/adams-the-works-of-john-adams-vol-10-letters-1811-1825-indexes#Adams_1431-10_1221.

¹⁶⁴ *Ibid.*

Conclusions

Smugglers remained elusive figures throughout the eighteenth-century in the British Atlantic world. To some degree smugglers will always remain so, both in their trade and in their classification by observers. The British government recognized various policy failures it had made during its efforts to suppress smuggling and attempted to correct them, such as establishing a free port system in the British West Indies, starting with the Free Port Act of 1766, or the significant reduction of the duty on tea in 1784 by the Commutation Act.¹ Spiritual authorities continued to caution followers against the evil of smuggling, most notably John Wesley as he demonized smugglers and their trade as a part his quest to spread Methodism.² Smuggling diminished when duties were reduced to render it unprofitable, but as a practice it would never disappear. Similarly, the smuggler as a figure in print culture and popular media passed into legend after the eighteenth century as authors portrayed them as honest thieves, more Mandrin than Mayfield Gang, more Robin Hood than the ruthless villains who killed informers and customs officers.

Samuel Johnson's *Dictionary* famously contained some of the personal views of the author, but when he wrote that a smuggler was "a wretch" he was drawing from a well-established literature in British print culture. Smugglers had been portrayed as wretches, rogues, and dangerous criminals from their first appearance in English print. Smugglers were, from the outset, the menacing transformation the owler who transported wool out of the country. Smugglers were shown to be more organized and more violent than their owler predecessors. Smugglers' ascent as a dominant criminal group coincided

¹ See Frances Armytage, *The Free Port System in the British West Indies: A Study in commercial policy, 1766-1822* (London: Longmans, Green and Co., 1953); Hoh-Cheung and Lorna H. Mui, "The Commutation Act and the Tea Trade in Britain, 1784-1793," *Economic History Review* 16, New Series, no. 2 (1963): 234-253.

² John Wesley, *A Word to a Smuggler* (London, 1767). This work was reprinted in London in 1783, 1775, 1793, and 1827.

with the rise of the newspaper press so that they were a persistent feature of crime reporting for the entirety of the early modern press. Illegal traders became notorious figures for the British reading public, whether or not readers had ever encountered an actual smuggler. These purveyors of contraband were some of the most commonly featured villains for newspaper editors, economists, and politicians alike. Their image as the lowest of British society, treacherous and desperate malefactors, was more than dominant, it was nearly universal for almost a century in English print. Whenever the smuggler appeared in verse or prose, they were the villain. There were no honest thieves among the English smugglers in the seventeenth and early-eighteenth centuries. This perception of smugglers pervaded printed discourse and affected metropolitan understanding of regions where smuggling was rife.

That is not to say that the British relationship with smuggling was not more complicated than it appeared in print. Throughout the century authors noted the seemingly widespread acceptance of the practice by the commonfolk of the coasts whose livelihoods often depended upon illegal trade networks, especially when economic decline left laborers without stable income. The belief regarding popular support of smugglers only emboldened authors to castigate the perpetrators with more vigor than if it were not supported by populations near the coast. Commentators made sure to draw the connection between those who tacitly endorsed or indirectly supported smugglers and the most heinous acts related to smuggling. Religious authorities emphasized the sin of buying smuggled goods and legislators put the onus on communities where violent smuggling crimes occurred. Other authors suggested that local communities often winked at smuggling out of fear rather than complaisance, which was further supported by newspaper reports and *Ordinary of Newgate's Accounts* in which smugglers themselves noted the terror they inflicted on inhabitants of the towns where they were active.

The development of that idea, that smugglers were inflicting a reign of terror on the inhabitants of the counties where they were dominant, especially Kent and Sussex, was an important turn in the eighteenth-century print culture regarding smuggling. Smugglers were more frequently shown to engage in more types of violent crime in the 1740s, like highway robbery and murder. The smuggling crisis had evolved. The increasingly draconian laws in the 1730s and 1740s can be attributed to this perception of the smuggling crisis. These were not simply reactions to smuggling, but to the violent turn that had been associated with the smuggling gangs of the south. Historians have noted that smugglers and those who supported the trade did not feel it was a great crime, with many individuals expressing that in court or in jail after their sentencing. However, the public perception of smuggling had changed and contrabandists were not simply seen as criminals who were avoiding duties on the goods they transported and sold. Smugglers were viewed as rebellious Britons, violent offenders who were part of organizations that stood in defiance to the crown, Parliament, and the laws of the country. They had murdered soldiers, officers, and innocent subjects for trying to impede their trade, seize their goods, or for complying with government investigations. When James Holt was sentenced to death in 1752, the *London Evening Post* reported that “among his last words, were; It is very hard to be hanged for smuggling.”³ His death sentence was beyond that, of course. He was being hanged for being a smuggler and all that smuggling represented by 1752.

The stain of smuggling went beyond the smugglers who joined gangs and battled customs officers and dragoons to transport their illicit cargoes. Entire counties and regions were demonized and diminished in the public eye because of their notorious penchant for smuggling as portrayed in print. Kent and Sussex were early and persistent examples of this. The Kentish people were ridiculed in print and in several cases their requests for assistance were mocked alongside references to their smuggling activities. This was an even more serious issue for areas that were subject to special legislation, such as

³ *London Evening Post*, 11-14 Jul. 1752.

the Channel Islands, the Isle of Man, Scotland, Ireland, and British colonies. These regions' infamous smuggling activities brought special attention from the crown and Parliament, eventually with devastating effect. Annie Tock Morrisette argues that the American Revolution caused a shift in the discourse concerning smuggling, that the British government realized the "potential revolutionary power of smuggling," after the Northern colonies erupted in a furor, responding to the government's attempts to suppress colonial smugglers.⁴ Certainly, the stain of smuggling with which colonists had been painted was a source of great consternation among the Northern colonists and helped to develop their defiance to Britain.

The revolutionary or rebellious potential of smuggling had been a feature of British print culture for years. Illegal traders' ties to Jacobitism and the French were long highlighted, with many commentators arguing it as next to treason or rebellion in itself. Smuggling was viewed as an act of disloyalty at its core, an affront to the crown and Parliament, so many observers believed that throwing off the yoke of these authorities was the natural consequence of unfettered contraband. Many contemporaries argued that only a reduction in duties, thus removing the temptation to smuggle, would come close to eradicating the trade. However, authorities consistently attempted to crush smugglers under the weight of the judicial apparatus and bring illicit traders to heel with the Bloody Code. Nonetheless, death was not a sufficient deterrent for smugglers, as the trade continued in the face of public execution.

British depictions of smugglers were *almost* universally negative throughout the first century of the word's existence. There were only two notable exceptions, which further show the complex relationship Britons had with smugglers. When the British were smuggling into Spanish America it was often ignored or countenanced by many observers, or in a few cases outright supported as beneficial to the empire. What was detrimental to Spain and swayed the balance of trade in favor of Britain was

⁴ Morrisette, "Discourse on Smuggling at the Old Bailey," 5.

something to be encouraged rather than punished. Had the trade not led to a costly war, it likely would have continued to have tacit support from many London observers. The main concern with smuggling, after all, was that it diminished the potential revenue of Britain. If illegal trade drained the potential revenue of a rival empire, that was generally a positive outcome. As long as Britain received its customs, authors were happy to exalt smuggling as a beneficial branch of trade.

The perception that smuggling was not as inherently evil as it was portrayed in British print culture was further accentuated by the case of Mandrin and his overwhelmingly positive portrayal in London. Once again the victim of the crime was a rival empire and the tax farmers that the French government had set upon its subjects. To Britons, these were legitimate targets of Mandrin's attacks. His campaigns in southeastern France were heroic actions against tyranny and corruption. His moral economy, as described by Michael Kwass, added to the sense that he was an honest thief who was freeing the common people from the unfair monopolies and taxation policies of the absolutist French regime and the General Farm. It was fitting that in eighteenth-century British discourse on smuggling the first appearance of the smuggler hero who highlighted the moral ambiguity of illegal trade was a Frenchman who was shown to be a thorn in the side of Britain's greatest rival. After all, one of the most important, and consistent, aspects of the discourse on smuggling throughout the seventeenth and eighteenth centuries was the fear of the rising French power in Europe and America.

French trade influenced economic protectionism throughout the British Atlantic. France was the specter behind the decline of the wool and sugar industries. The economic millenarianism that was a dominant feature of commercial literature was overwhelmingly based on French commercial activities. The French government was portrayed as calculating Britain's economic demise, encouraging smuggling to Britain and British colonies to engross the sugar trade to themselves and get British wool for French textile production. In this light, smugglers were worse than a foreign enemy. They were treasonous subjects at home, enriching the enemy and empowering them in wartime. These concerns rose during

repeated wars with the French, with some authors even suggesting that British smugglers would be hired to pilot a French invasion of Britain. The continued smuggling to and from France during wartime gave authors their most powerful ammunition against smugglers, allowing them to show how close to treason smuggling was in practice.

British commentators depicted smuggling as a disease on the body politic throughout the eighteenth century and it only seemed to spread despite efforts to eradicate it. The disease spread along the coasts and across the Atlantic until it infected colonists, eventually becoming a virtually incurable ailment. The remedies proposed only seemed to create new symptoms of violence and fraud. The perpetrators of the crime never saw it as a capital offense and continued to trade illegally as long as there was profit to be made. Adam Smith noted in his celebrated *Wealth of Nations* that many smugglers probably were not natural criminals, arguing that a smuggler was guilty of “violating the laws of his country,” but he was “frequently incapable of violating those of natural justice, and would have been, in every respect, an excellent citizen, had not the laws of his country made that a crime which never meant to be so.”⁵ This perception would eventually become a more consistent, even dominant, portrayal of the smuggler. It was certainly how the Northern colonists viewed themselves. They believed their legitimate commerce had been criminalized and that they were then pursued as smugglers.

Historian Alan Karras suggests that smugglers have been incorrectly perceived as violent because of the confusion between pirates and smugglers.⁶ This may be true in a macrohistorical sense, but for Britons in the eighteenth century there was no confusion. Smugglers were distinct criminals in the early eighteenth century and could later be confused with highway robbers, though there is little evidence that they were conflated with pirates. There were rare cases of something similar in British print culture, such as a report in the *Public Advertiser*, which informed readers that a ship was sent “to

⁵ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, vol 3 (London, 1776), 329.

⁶ Alan Karras, *Smuggling: Contraband and Corruption in World History* (Lanham, MD: Rowman and Littlefield Publishers, 2010), 18.

rout out a desperate gang of English and French smugglers, or rather pirates, who have for some months past infested” Belle Île off the Brittany coast.⁷ However, British smugglers were overwhelmingly viewed as a particular type of criminal. Paul Muskett has shown that smuggling violence was not limited to the gangs of Kent and Sussex, but rather it was a consistent feature of eighteenth-century British smuggling. The perception of them as violent rogues, quick to battle and inclined to intimidate opposition, proliferated in repeated portrayals in British print culture for over a century. Though certain cases received outsized attention, such as the Galley and Chater murders or the smugglers featured in *Ordinary of Newgate’s Accounts*, it seems that the London perception of smugglers was well earned.

There is little evidence that smugglers in the British North American mainland colonies developed similar levels of violence as their counterparts in Britain, but they smuggled all the same. Metropolitan onlookers perceived British Northern colonists as potentially dangerous smugglers because of their trade with foreign sugar islands or with French Canada during wartime. The colonies held a unique position in the imperial economy, of far greater importance than smuggling regions like Kent and Sussex. Colonial industries could not compete with domestic ones. After the Molasses Act of 1733, it was clear that the Northern colonists’ industries were not allowed to compete with those of the British sugar islands. The British government had several critical objectives in regulating colonial economies. One of the primary objectives was to have the wealth and resources colonists produced center in Great Britain. Another key objective was to maintain colonial economic dependence on the mother country. British commentators and government officials believed that Northern colonists threatened the foundation of imperial strength through the subversion of these economic goals. This view was clear in the discourse concerning the Molasses Act and colonial smuggling. The colonists, of course, felt their molasses trade was beneficial to the empire and it was critical for colonial remittances to England. Nonetheless, the British government was determined at first to eliminate the colonial

⁷ *Public Advertiser*, 23 Nov. 1764.

molasses trade with foreign sugar islands and then to create a revenue from it. The government's attack on this vital trade and the perception of Northern colonists as smugglers when they refused to give it up eventually exacerbated the separation between Britain and its mainland North American colonies. The colonial merchants cultivated a spirit of resistance to Parliamentary authority throughout the life of the Molasses Act, resenting their classification as smugglers. Metropolitan perceptions of the Northern colonists as disloyal smugglers grew throughout this period. Eventually the colonists took a stand against Parliament's arbitrary customs enforcement, taking particular exception to its efforts to stamp out the molasses smuggling trade. The government's use of writs of assistance to stamp out smuggling, and colonial resistance against those general warrants, was emblematic of the struggle between the mother country and colonists. John Adams, who saw the link between molasses smuggling and the American Revolution, similarly attributed the resistance to general warrants as a foundational movement toward independence. Adams pointed to James Otis's argument against writs of assistance in 1761, wherein he "demonstrated the illegality, the unconstitutionality, the iniquity and inhumanity," of the general warrant so forcefully "that every man appeared to me to go away ready to take arms against it."⁸ Otis's speech against the anti-smuggling measure, according to John Adams, was the real beginning of the American Revolution. The British government, perhaps, recognized the true rebellious potential of smuggling three decades too late.

⁸ John Adams to William Tudor, 18 Dec. 1816, John Adams, *The Works of John Adams, Second President of the United States: with a Life of the Author, Notes and Illustrations, by his Grandson Charles Francis Adams* (Boston: Little, Brown and Co., 1856). Vol. 10. <http://oll.libertyfund.org/titles/2127>.

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