

The Evolution of the Legal Concept of Piracy in Early Modern England

JON NEUFELD

One of the most striking transformations of the early modern period was England's metamorphosis from "a nation of pirates" to a nation determined to cleanse the seas of all piratical activity. Yet surprisingly, a *de jure* change in the English legal concept of piracy did not occur. The very legal definition that oversaw piracy's "golden ages" was used in the early 18th century to eradicate it. The real change occurred in the *de facto* English view of piracy which shifted from a tolerance of the crime to its unabashed hatred over the course of the 17th century. This change occurred in order to better suit the needs of the English state. Based on changing military, political, economic, and cultural factors, this shift led not to a change in the law itself, but rather a more rigid interpretation and enforcement of the existing law. By examining English piracy law, its interpretation, as well as the forces which contributed to its evolution, one gains valuable insight into not only a key aspect of English history, but also into the ambiguity that defined statecraft in the early modern period.

Piracy has been a facet of England's history from the beginning,¹ and accordingly, English law has been forced to address it. Though formal piracy laws date back to the Greco-Roman period, these classical laws had little or no influence on English laws, which were based, not on Roman code, but on practical considerations.² The early modern period saw the first real attempt at improving English piracy law with the passage of the Offences at Sea

¹ One could argue that the Celtic, Angle, Saxon, and Norman invasions of Britain were all in essence, piratical. See Bradley P. Nutting "The Madagascar Connection: Parliament and Piracy 1690-1701" *The American Journal of Legal History* vol.22 No.3 (July 1978) 202.

² Though the origins of piracy law in Antiquity and their ramifications on the early modern period are fascinating, they are unfortunately outside the scope of this paper.

Act of 1536 which moved piracy from a matter of civil law to the realm of common law.³ This act formally defined piracy as “All Treasons, Felonies, Robberies, Murthers, and Confederacies...committed in or upon the Sea...” a definition that remained relatively intact over time.⁴ This act also ostensibly eliminated any differentiation between crimes committed at sea and on land, making crimes committed upon the sea eligible for the death penalty.⁵ The act also tasked the Admiralty courts with administering justice.⁶ The foundation provided by the Offences at Sea Act would be built upon by royal proclamations which attempted to encourage compliance with the law through threatening enforcement, expanding punishments, and adding regulations. The English state’s *de jure* opinion of piracy is further clarified in these proclamations, as it is described as being “no small slander of [the] realme”⁷ causing “high displeasure,”⁸ and pirates as “enemies of Christendom and spoilers of our subjects,”⁹ “lewd and disorderly English men,”¹⁰ “disordered persons”¹¹ who performed

³ Henry VIII “Offences at Sea Act 1536, Article I” in J.R. Tanner *Tudor Constitutional Documents A.D. 1485-1603*. (Cambridge: Cambridge University Press, 1922) p. 347-348. See also Alfred P. Rubin *The Law of Piracy, Second Edition* (Irvington-on-Hudson NY: Transnational Publishers, 1998) 49.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid. Articles I & II.

⁷ Edward VI “19 February 1549 – By the King. A proclamation concerning Pirates and Robbers of the Sea. [Begins] The Multitude of Piracies and Robberies...” in in *All such proclamacions, as haue been sette furthe by the Kynges Maiestie (and passed the print) from the last daie of January, in the firste yere of his highnes reigne, vnto the last daie of January, beeying in the third yere of his said moste prosperous reigne, that is to saie, by the space of three whole yeres. Anno 1550.*

⁸ Ibid.

⁹ Philip and Mary I 7 June 1557 – *By the Kynge and the Quene [Begins] Although we ye Quene at oure... [Reasons for war with France]* (London: J. Cawoode. 1557).

¹⁰ Elizabeth I 21 July 1561 – *By the Queene. The Queenes Maiestie hearyng by reporte of some of the subiectes of her good brother the kyng of Spayne, that notwithstanding both the seueritie of iustice diuers tymes extended by her maiestie agaynst sundry pirates ...* (London: Jugge and Cawood, 1561).

¹¹ Elizabeth I 3 August 1569 – *By the Queene. A proclamation against the maintenaunce of pirates.* (London: Jugge and Cawood, 1569).

“sundry acts,”¹² which threatened the peace which England enjoyed.¹³ The harsh official laws and proclamations regarding piracy served the English state well, as they allowed for the possibility of enforcement and thereby provided a means to maintain national sovereignty, prestige, and diplomatic relations.¹⁴ At the same time, despite the hard stance of these very laws and proclamations, English piracy was flourishing, for behind such tough language lay an unofficial ambivalence towards piracy based on pressing practical considerations.

One of the practical considerations shaping interpretations of early English piracy law was the country’s utter reliance on what were, in effect, pirates for national security. It is here that one must note the distinction between piracy and privateering, the latter being, a sanctioned, limited variant of the former. Just as weak national power prohibited the formation of professional armies forcing monarchs to rely on vassals, the same held true for the formation of national navies leading to the privatization of national navies and naval warfare. Due to the immense cost of naval warfare, privateering was the only way that the economically deprived early modern states could afford any semblance of a navy.¹⁵ Privateering offered ship owners and merchants the opportunity to avenge any losses due to enemy action through state sanctioned piracy. These actions were governed by Letters of Reprisal – later referred to as Letters of Marque – issued by the Admiralty Courts to limit the privateer’s scope of action. The entire concept of privateering was justified by the ancient principle of *lex talionis*.¹⁶ Initially a retaliatory measure, privateering quickly became a means

¹² Elizabeth I 31 July 1564 - *By the Quene [Begins] The Quenes Maiestie being in good and perfect peace [For Peace with Foreign Princes]* (London: Jugge and Cawoode, July 1564).

¹³ David J. Starkey “The Origins and Regulations of Eighteenth Century British Privateering” as found in C.R Pannel ed. *Bandits at Sea: A Pirates Reader* (New York: New York University Press, 2001) 70.

¹⁴ Without said laws, it stands to reason that England’s reputation as “a nation of pirates” would have gone completely unchecked. This would have surely strained diplomatic relationships and decreased national prestige. Furthermore the persistence of unchecked piracy in and around England would have provided neighbouring nations with a convenient justification for warthereby threatening national security.

¹⁵ Starkey op.cit. 70.

¹⁶ Ibid. *Lex talionis* is more commonly known as “...an eye for an eye and a tooth for a tooth...”

for individuals to make a profit through the interruption of enemy sea trade and for governments to gain the upper hand in a conflict.¹⁷ The Offenses at Sea Act of 1536 added to the task of punishing privateers who disobeyed the terms of their Letters of Reprisal and the administration of the death penalty to the Admiralty Courts' existing responsibilities.¹⁸ The use of privateers for national security had deep roots in English history as the formative Norman state often called upon ship owners of Southern England to defend the channel from foreign invaders.¹⁹ Thus because of England's dependence on privateers, piracy assumed only the *de facto* definition of illegal privateering.²⁰ This arrangement would not prove completely satisfactory as privateers often turned to illegal piracy to supplement their income. These actions forced the English monarch to issue Royal proclamations, such as that made by Edward VI in 1549, in order to curtail the illicit actions of privateers by threatening them with execution and cutting off their means of support.²¹ These threats would ultimately prove to be hollow as the state continued to rely on privateers for the vast majority of their naval power.

England's reliance on these privateers would become especially apparent during the long Anglo-Spanish war of 1585-1604. Though past royal proclamations had tried to curtail the activities of English privateers to maintain peace with the Spanish Empire, the formal commencement of hostilities removed many restraints that had previously been placed on them.²² During the conflict English privateers would make up the vast majority of the English navy and provide a critical supplement to the few royal ships available.²³ Furthermore the raids of English pirates on Spain and its colonies drew vital military resources from the

¹⁷ Ibid.

¹⁸ Henry VIII "Offences at Sea Act 1536, Article I" in J.R. Tanner *Tudor Constitutional Documents A.D. 1485-1603*. (Cambridge: Cambridge University Press, 1922) p. 347-348.

¹⁹ Nutting op.cit. 202.

²⁰ David Starkey op.cit. 70.

²¹ Edward VI op.cit.

²² Edward VI op.cit., Philip and Mary I op.cit., Elizabeth I *21 July 1561 – By the Queene...*, and Elizabeth I *3 August 1569 – By the Queene..*

²³ Christopher Harding "Hostes Humani Generis" – The Pirate as Outlaw in the Early Modern Law of the Sea" as found in Claire Jowitt ed. *Pirates? The Politics of Plunder 1550-1650* (New York: Palmgrave McMillan, 2007) 27-28.

European theatre and had a significant impact on the Spanish economy.²⁴ In this way English privateering proved to be England's belated response to Spanish Imperialism. The English state could not match the wealth created by the Spanish colonies, but it could lessen their economic impact through interrupting Spanish colonial trade.²⁵ Even so, the unbridled use of privateers was not without its problems as neutral ships were often attacked, causing great embarrassment to the English crown and resulting in stern but ultimately empty proclamations such as those made by Elizabeth I in 1591, 1599, and 1603. The language of these proclamations is much more accommodating to privateers as not to dissuade them from offering their much needed services. As such they do little more than implore privateers to follow the laws laid down by the Admiralty courts in their commissions.²⁶ In the end, the immense military benefits provided by a large fleet of able privateers far outweighed the diplomatic inconveniences caused by any piratical behaviour resulting in little change to the ambivalent view of existent laws.

Military necessity was only one aspect motivating England's reluctance to abandon piracy and privateering, as English privateers provided numerous economic benefits to the English state. In addition to operating as sea-thieves, early modern pirates also operated as "aggressive merchants", defying existing trade laws and often forcing transactions beneficial to them.²⁷ By playing this mercantile role, English privateers opened up new markets, made new goods available to the English people in significant quantities, and bypassed the expensive

²⁴ Ibid. 27.

²⁵ Barbara Fuchs in Christopher Harding op.cit. 14. 25.

²⁶ Elizabeth I 3 February 1590 – *By the Queene. The Queenes Maiesties proclamation, declaring her princelie intention to inhibit her subiects vpon most extreme paines, from offending on the seas any persons in their ships or goods, being the subiectes of any prince, potentate, or state, in amitie with her Maiestie.* (London: Deputies of C. Barker 1590-1591). Elizabeth I February 8 1599 – *By the Queene. The Queenes Maiesties proclamation, declaring her princely intention to inhibite her subiects vpon most extreme paynes from offending on the seas any persons in their ships or goods, being the subiected of any prince, potentate or state, in amitie with her Maiestie.* (London: Deputies of C. Barker, 1599). Elizabeth I 20 March 1601 – *By the Queene. A proclamation to repress all piracies and depredations vpon the sea.* (London: R. Barker, 1601-1602).

²⁷ Anne Pérotin Dumon "The Pirate and the Emperor: Power and Law on the Seas 1450-1850" as found in C.R Pennel ed. *Bandits at Sea: A Pirates Reader* (New York: New York University Press, 2001) 33-35.

intermediary trading partner of Catholic Spain which dominated the New World market.²⁸ Furthermore these same pirates often acted as explorers, opening up possibilities for future commercial routes and resource exploitation as well as laying the foundation for future colonial expansion.²⁹ Traditional piracy also had a positive economic impact as the influx of essentially free pirated goods stimulated the English economy. Pirate gold provided valuable capital to the English state. For example, the wealth gained by Sir Francis Drake was indispensable to the foundation of the English East India Company.³⁰ These economic factors played a major role in England's continued reluctance to adopt a strict interpretation of existing piracy law as such an action might have seriously harmed the English economy.

Military and economic matters aside, there were also strong cultural factors that prevented the English government from taking a hard line on piracy.³¹ It is important to note that as a whole, early modern English culture was accustomed to violence, especially in trade.³² Born out of the anarchy of the Middle Ages, the view that violence was an unavoidable part of overseas trade bestowed a normative status upon piratical actions.³³ This normative status would lead to many legitimate merchants in this period, to take out Letters of Marque should they come across any opportunities for plunder.³⁴ The sheer scale of privateering and piracy was a major obstacle to any strict interpretation of the law.³⁵ The aforementioned factors, coupled with the military and economic benefits provided by privateering, also created a great deal of ambivalence towards piracy in the culture at large.³⁶ Many pirates such as Francis Drake were regarded as national heroes and the legality

²⁸ Ibid. 36.

²⁹ Harding op.cit. 14. 28-29.

³⁰ Mark Netzloff "Sir Francis Drake's Ghost: Piracy, Cultural Memory, and Spectral Nationhood" as found in Claire Jowitt ed. *Pirates? The Politics of Plunder 1550-1650* (New York: Palmgrave McMillan, 2007) 27-28.

³¹ Harding op.cit. 34-35.

³² Ibid. 25-26.

³³ Ibid. 25-26, 34-35. Also Anne Pérotin Dumon op.cit. 29.

³⁴ David Starkey op.cit. 71.

³⁵ Ibid. 71-72.

³⁶ Christopher Harding op.cit. 34-35.

of their actions was hardly important to the nation as a whole.³⁷ This cultural ambivalence is especially apparent in the attitudes of the pirates themselves as they often considered themselves to be English patriots and proud Protestants rather than criminals.³⁸ In addition to military and economic factors, cultural factors led to many in England to adopt a highly ambivalent view of piracy during the 16th and early 17th century which hindered subsequent attempts to bring it to an end.

Following the end of the Anglo-Spanish war, thousands of unemployed privateers turned to piracy.³⁹ This necessitated the first serious use of England's piracy laws and revealed another consideration influencing the English state's loose interpretation of existing piracy laws: their inability to enforce them.⁴⁰ These attempts to enforce existing laws were primarily motivated by a need to maintain the fragile peace with Spain and good relations with other European polities. However the anti-piracy actions of the early 17th centuries were also greatly influenced by James I's personal hatred of piracy⁴¹ which was clearly laid out in the language of James' royal proclamation of 1608 where he states:

The Kings Maiestie, having bene informed through the manifold complaints made to his highnesse...of the many depredations and piracies committed by lewd and ill disposed persons accustomed and habituated to spoile and rapine, insensible and desperate of the peril they draw upon themselves, and the

³⁷ Mark Netzloff op.cit.

³⁸ Peter Earle op.cit. 25-26.

³⁹ Indeed in both duration and sheer number of operating pirates the period immediately following the Anglo Spanish War (1585-1604) was the true "Golden Age of Piracy" rather than the 1720's see John Appleby "The Problem of Piracy in Ireland 1570-1630" in Claire Jowitt ed. *Pirates? The Politics of Plunder 1550-1650* (New York: Palmgrave McMillan, 2007) p.41-42.

⁴⁰ Ibid.

⁴¹ James I *30 September 1603 – By the King. A proclamation to repress all piracies and depredations vpon the sea* (London: R. Barker, 1603), *James I 8 July 1605 – By the King. [Begins] Whereas the Kings maiestie hath alwayes bene ready to imbrace and cherish such a ... [On the treaty with Spain]* (London: R. Burke, 1605). Peter Earle *The Pirate Wars* (London: Methuen Publishing Ltd. 2003) 55-57.

imputation they call upon the honour of their sovereigne so precious to him, as for redresse thereof he is inforced to reiterate his...loathing and detestation not only of the crimes but also to manifest to the world his sinceritie and exceeding desire for the speedy supressing of the delinquents...⁴²

These efforts were complicated by the Offences at Sea Act of 1536 which failed to account for dealing with piracy beyond the immediate vicinity of England. The Offences at Sea Act left serious questions of jurisdiction and adequate enforcement unresolved. These factors were further exacerbated by the prevalence, legality, and acceptance of privateering under the vague and often corrupt direction of the Admiralty Courts.⁴³ Forged Letters of Reprisal often allowed for pirates to argue the legitimacy of their actions and prevent effective prosecution.⁴⁴ Furthermore the lack of international law during this period resulted in English piracy laws only being applicable to English citizens on English soil.⁴⁵ This limited the law's usefulness in places such as Ireland and Morocco, where many pirates fled in the first decade of the 17th century. The law also lacked jurisdiction in what would later be called international waters, authorities could only apprehend pirates while in English ports.⁴⁶ Furthermore, even if the English state had wanted to enforce its piracy laws, as a formative nation it simply lacked the fiscal independence to do so.⁴⁷ For most of the early modern period, England only possessed a handful of standing naval vessels due to fiscal constraints.⁴⁸ As a result, 17th century English fleets tasked with suppressing piracy were comprised primarily of privateers. The fact that these privateers greatly benefitted from the status quo and that the pirates had substantial backers within the English government greatly

⁴² James I *8 January 1608 – By the King. A Proclamation against Pirats.* (London: Deputies of Barker, 1608).

⁴³ Starkey op.cit. 78-79

⁴⁴ Harding op.cit. 31-32.

⁴⁵ Alfred Rubin op.cit. 58-60,68, 72-73.

⁴⁶ Appleby op.cit. 47. Rubin op.cit. 68, 72-73.

⁴⁷ Anne Pérotin Dumon op.cit. 29.

⁴⁸ The bulk of England's naval strength was derived from requisitioning and converting civilian vessels and crews for military purposes see Peter Earle op.cit. 20-21,25.

limited the effectiveness of English anti-piracy measures in the 17th century.⁴⁹ Yet the existing law was not totally impotent, as during the period surrounding the English Civil War, both the Royalists and the Parliamentarians, used the existing laws to prosecute those who aided the other side as pirates and enemies of the state.⁵⁰ Any attempt to enforce the law abroad was done outside of the law, as English monarchs such as James I were forced to circumvent it through the issuing of pardons and requests for foreign military intervention.⁵¹ The inability of the English state to adequately apply their existing piracy law proved to be a major factor in their continued permissiveness of the crime.

What then, happened to cause England, “a nation of pirates”, to completely reverse its position before the end of the 17th century? Ultimately, it was England’s emergence as the world’s pre-eminent commercial power that ended the English state’s toleration of piracy. Over the course of the 17th century, the development of England’s small network of colonies and trading posts into a commercial empire brought with it immense wealth and new methods of commerce. Though founded in no small part by the piratical merchants of the Elizabethan era, the progression of the 17th century saw such methods abandoned in favour of more legitimate concerns. As legal commerce became the lifeblood of the Empire, any activity that interfered with it, such as illicit piracy, quickly lost its appeal. Formerly profitable mercantile activities such as smuggling, undertaken by pirates now interfered with legitimate British trade and taxation through the Navigation Acts.⁵² Though some piratical economic activities, such as smuggling and the influx of pirated goods, persisted, the risk of destabilizing the political climate and creating conflict was seen as extremely unprofitable by

⁴⁹ Ibid.

⁵⁰ House of Commons, Parliament, England and Wales. *10 December 1642 – An Ordinance of the Lords and Commons Assembled in Parliament for the Speedy setting forth of certaine Shippes (in all points furnished for war) to prevent the bringing over of Souldiers, Money, Ordnance, and other Ammunition from beyond the Sea to assist the King against the Parliament in England* (London: John Wright, 1642). A similar instance occurred after the Glorious Revolution, when James II issued Letters of Marque authorizing privateers to attack English shipping. As Parliament did not recognize James as their legal sovereign, citing his abdication said privateers were treated as pirates, see Alfred Rubin op.cit. 74-75.

⁵¹ Peter Earle op.cit. 60

⁵² Alfred Rubin op.cit. 34.

both the English state and the commercial community. England now had assets to lose making piracy a much less viable option.⁵³ Increased economic prosperity also accentuated a cultural shift away from piracy. Stable trade relations were deemed more conducive to the acquisition of greater profits and therefore superior to piracy which became seen as increasingly dangerous.⁵⁴ Indeed for this reason, as the 17th century progressed, pirates began to replace the Spanish as the perennial enemies of English folk culture. This can be seen in many English poems and songs of the period in which pirates feature prominently as antagonists.⁵⁵ The continued interference of piratical actions with the increasingly important legitimate trade that served as the foundation for English power was perhaps the greatest factor which brought an end to England's ambivalent legal approach to piracy.

In addition to powerful economic and cultural changes, the 17th century also saw a number of political and military developments that provided the means to do away with piracy. First and foremost among these developments was the continued consolidation and centralization of the English state. This fundamentally changed the nature of privateering as the noble lords who had previously subsidized English piracy lost much of their independence, which forced them to pursue legitimate means of income.⁵⁶ This loss of support not only cut privateers off from vital bases and sources of income, but also from societal acceptance.⁵⁷ As the seventeenth century progressed privateers were increasingly seen as anarchic and a threat to the existing social order rather than purveyors of it.⁵⁸ No longer could one be a patriotic protestant Englishman and engage in the unruly practice of piracy. These factors led many privateers to accept more legitimate work, drastically decreasing their numbers.⁵⁹ This was also due to the demand for their services from both the growing state apparatus in England and those emerging across Europe as English privateers

⁵³ Ibid. 37.

⁵⁴ Anne Pérotin Dumon op.cit. 39-41.

⁵⁵ Alfred Rubin op.cit. 23.

⁵⁶ Peter Earle op.cit. 57. Also Anne Pérotin Dumon op.cit. 31-33.

⁵⁷ Peter Earle op.cit 101-102.

⁵⁸ Ibid.

⁵⁹ Peter Earle op.cit. 57.

became the building blocks of several national navies.⁶⁰ Furthermore, the development of naval technology during the 17th century greatly decreased the value of private vessels in naval warfare. As warships grew bigger and more complex, it became more cost effective to build and maintain ships specifically built for war rather than convert civilian vessels during times of war.⁶¹ These warships also far outclassed the capabilities of even the best pirate vessels, greatly improving the efficacy of anti-piracy patrols.⁶² Though the cost effectiveness of privateering persisted, England throughout the 17th century was increasingly less reliant on privateers and became more capable of enforcing its laws upon the sea due to the political and military developments that resulted in the strengthening of the Royal Navy.

As the 17th century drew to a close, England, possessed a powerful economic incentive, an increasingly powerful national military means to eradicate piracy, and a cultural attitude much less favourable to piracy took measures to reconcile their interpretation of the existing law with its intent. Recognizing the inadequacy of the existing law as well as its increasing irrelevance to England's newfound imperial reality, measures were taken to address these issues. One such measure occurred first in the pirate ridden colony of Jamaica with the passage of an anti-piracy act in 1681 known as the Jamaica law.⁶³ Similar to the act of 1536, the Jamaica Law allowed for the immediate prosecution of captured pirates in the colony under the authority of local admiralty courts appointed by the colonial governor.⁶⁴ Another measure was the foundation of the Board of Trade in 1696 to examine various issues surrounding colonial piracy and its impact on trade.⁶⁵ Both of these developments would be

⁶⁰ Ibid. 62.

⁶¹ David Cordingly *Under the Black Flag: The Romance and the Reality of Life Among the Pirates* (New York: Random House Publishing, 1996) 208.

⁶² Ibid.

⁶³ Nutting op.cit. 204.

⁶⁴ Colonial Government of Jamaica "An Act for the Restraining and Punishing of Privateers." in *The Laws of Jamaica: Comprehending All Acts Passed Between the Thirty-Second Year of King Charles II and the Thirty Third Year of King George II*. Second Edition, Vol. 1 (St. Iago de la Vega, Jamaica: Alexander Aikman, 1802) 8-10.

⁶⁵ Peter Earle op.cit. 147.

incredibly helpful to the writers of the Piracy Act of 1698⁶⁶ as they sought to expand upon the existing law of 1536 and incorporate elements of the Jamaica law to form a more comprehensive law better suited to the suppression of piracy and the promotion of trade within the Empire.⁶⁷ The resulting law allowed for immediate trial and judgment by local Admiralty courts whereas the act of 1536 required all trials to take place in London. This aspect greatly facilitated attempts to suppress piracy in the distant regions of the English Empire.⁶⁸ Of equal importance, the Act of 1698 also addressed the issue of jurisdiction replacing the phrase "...where the Admiral or Admirals have or *pretend to have* Power, Authority, or Jurisdiction..."⁶⁹ with "...where the Admirals *have* Power, Authority or Jurisdiction..."⁷⁰ allowing the English empire to enforce its piracy laws throughout the world. The issue of enforcement was also addressed, as the Parliament sought to replace royal proclamations with measures enshrined in the Common Law.⁷¹ Past measures such as extending the death penalty to those who aided pirates and providing rewards for those who repelled pirate attacks or captured pirate vessels were entrenched in the act of 1698.⁷² Furthermore the Piracy Act of 1698 would be accompanied by regulations on privateering, narrowing the practice to a strictly regulated range of actions which would remain in use until the mid 19th century.⁷³ Underlying these acts is a shift in motivations, whereas previously anti-piracy measures had been motivated primarily by the monarch's reputation, these measures were motivated by the pressing economic needs of the English

⁶⁶ This act took almost 2 years to be passed by Parliament, and was only passed due to the political crisis surrounding the trial of William Kidd. Thus though the Act was written and tabled in 1698 it was only passed in 1700 this has led to the Piracy Act being referred to as the Act of 1700 in several works though the proper title of the Act remains the Act of 1698.

⁶⁷ "Piracy Act of 1698", Preamble, in Alfred Rubin op.cit. 400.

⁶⁸ "Piracy Act of 1698", Preamble and Articles I-VII, in Alfred Rubin op.cit. 400-402.

⁶⁹ Henry VIII "Offences at Sea Act 1536, Article I" in J.R. Tanner *Tudor Constitutional Documents A.D. 1485-1603*. (Cambridge: Cambridge University Press, 1922) 347.

⁷⁰ "Piracy Act of 1698", Preamble in Rubin op.cit. 400.

⁷¹ Robert Steele *A Bibliography of Royal Proclamations of the Tudor and Stuart Sovereigns and others issued under Authority 1485-1714* (New York, New York: Burt Franklin, 1967) xxx-xxi.

⁷² "Piracy Act of 1698," Articles X, XI, and XII, in Alfred Rubin op.cit. 403-404.

⁷³ David Starkey op.cit. 73-76.

Empire and were more widely supported. Far from representing any kind of legal revolution, the Piracy Act of 1698 and other clarifying acts merely indicated the ongoing shift in English attitudes towards piracy. It was these attitudes that provided the legal basis for the suppression of piracy abroad.⁷⁴ Though the phenomenon of piracy persisted following the passage of the act, such persistence was not due to any legal ambiguity but rather the lack of inclination on the part of the government to enforce the laws.⁷⁵ The facts remain that when adequate resources were allocated the act of 1698 corrected several failings of the act of 1536 and was more than capable of legally overseeing the suppression of piracy as it was originally defined in 1536.⁷⁶ Thus the passing of the Piracy Act of 1698 in many ways marked an end to England's transformation from a "nation of pirates" to the scourge of pirates worldwide by reconciling the letter of the law with its interpretation and at last giving the Royal Navy the legal means with which to eradicate it.

In examining the evolution of the attitudes and approaches to piracy in early modern England as well as the numerous factors that spurred their initial development and subsequent shift, one is struck by the unique nature of legal systems in the early modern period. Undoubtedly, the example of piracy in England is but one example of the state's interest and not any ethical standard profoundly influencing its lawmaking process. As England matured as a nation, the various military, economic, cultural, and political factors that contributed to an ambivalent approach to the existing piracy law shifted and resulted in a stricter interpretation of the existing law. When piracy became no longer beneficial to the English state, the loopholes were closed and a stricter interpretation of the law was adopted. Gradually government action was taken on the matter, though a great deal of privateering continued well into the 19th century.⁷⁷ The case of piracy in early modern England illustrates not only an important aspect of English history but also the endemic ambiguity that characterized statecraft of the Early Modern Period.

⁷⁴ Peter Earle *op.cit.* 147.

⁷⁵ *Ibid.* 185, 187,234.

⁷⁶ Alfred Rubin *op.cit.* 113-114.

⁷⁷ *Ibid.* 215-218.