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Creating and Contesting Carolina

**CREATING and
CONTESTING**

Carolina

Proprietary Era Histories

Edited by

Michelle LeMaster and Bradford J. Wood



The University of South Carolina Press

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Portion of "Cutting one another's throats" appears
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with strong interests in the Indian trade. Nicholas Trott was the proprietors' chief justice, and Charles Hart was the proprietors' secretary. William Bull, Ralph Izard, and Peter St. Julien were planters. Jonathan Skrine lived in Charleston before 1719 and became a planter when he married Elizabeth Gaillard in 1719. There is a schism between the proprietary minute and entry books concerning the nomination of Jonathan Skrine. He was not mentioned on the list entered into the minute book for the proprietary board's session on June 19, 1719. However, he replaced John Kinloch on the list that was eventually prepared for transmittal to Governor Johnson on the same date. Kinloch was probably dropped because he had sympathized with the antiproprietary movement; Edgar and Bailey, *Biographical Directory*, 2:120-22, 131, 163-64, 276-77, 358-60, 379, 584-85, 623-24, 681-84, 729-30. Proprietors to Governor Johnson, June 19, 1719, Proprietors' Entry Book, 1710-1726, 142-43; Minutes of Meeting of the Lords Proprietors, June 19, 1719, Proprietors' Minute Books, 1708-1727, 124-26.

85. John Brewer, *The Sineus of Power: War, Money, and the English State, 1688-1783* (New York: Knopf, 1989).

86. I am greatly indebted to Dominik Nagl for calling my attention to the connection between the Revolution of 1719 and the process of state building. He deals more fully with this question in "Governance im kolonialen Nordamerika—Rechtstransfer, Staatsbildung und Praktiken der Disziplinierung in Massachusetts und South Carolina, 1630-1769" (Ph.D. diss., Free University of Berlin, 2011).

Protecting the Rights of Englishmen

The Rise and Fall of Carolina's Piratical State

MARK G. HANNA

During the late seventeenth century Charles Town was one of the most infamous pirate nests in the Atlantic World. The roots of Carolina's piratical state can be traced back well before the colony's foundation to Port Royal, Jamaica, during the decades following its acquisition by the English in 1655. Sea marauders of all nations fit out their vessels in its deep harbor and spent their hard-fought Spanish pieces of eight on liquor and prostitutes in its many taverns. Without a thriving sugar plantation economy built on slave labor like that in Barbados, early Jamaicans relied on the plunder of largely independent crews emphatically deemed "privateers" despite their obvious transgressions against international treaties of peace.¹ By the mid-1670s a rapidly expanding slave population began to produce stable profits from sugar exports. Wealthy planters could no longer allow bloodthirsty pirates to destabilize international affairs, which might lead to a Spanish invasion or even a bloody slave revolt foreshadowing similar developments in the Carolina colony a few decades later. By the 1680s Jamaican authorities not only banned English pirates; they tried and executed scores of them and hung them in gibbets at the entrance of the port. Even Henry Morgan, a man once considered a pirate by the Spanish and a supporter of "privateering" as deputy governor during the 1670s, became one of the wealthiest planters on the island who, as vice admiral, personally hunted pirates by the 1680s.

The closing of Port Royal certainly did not compel all former pirates to abandon a life before the mast to work as laborers on plantations. As fewer men owned more and more land in Jamaica, opportunities to join the landed gentry in the West Indies diminished. Some crews sailed to the Bay of Campeche to illegally cut logwood used for dyeing cloth. These roving bands periodically united with international armadas to raid along the Spanish Main. Their most infamous attack was the sack of the Spanish entrepôt port of Vera Cruz in 1683. Many of these men crossed over the Isthmus of Darien (today Panama) to prey on the Spanish in their most vulnerable ports on the southern Pacific coast known as the "South Sea." Bent on maintaining peace with Spain, Jamaica's governor, Sir Thomas Lynch, passed what would be known as the

Jamaica Act in 1684, forbidding trade with pirates and establishing procedures for the prosecution their of aiders and abettors on land.

Carolina's Lords Proprietors initiated their settlement amid this transformation of the English West Indies settling in its present location on Oyster Point in earnest in 1680. Hoping to begin plantations of their own on cheaper and more readily available land, colonists arrived with dreams of establishing a new Barbados, a successful commodity producing plantation economy based on slave labor. Instead Carolinians produced no staple crop during the first two decades and survived primarily on selling provisions in the West Indies or participating in the unscrupulous Indian trade.² Many pirates of the West Indies soon learned that if they could not return to Port Royal they could follow the Gulf Stream north through the Florida Straights to Charles Town to refit and careen their vessels and purchase a wide variety of victuals. Charles Town was in a perfect position to gain the pirate market, close to the major sites of West Indian plunder but far enough away to escape those who might seek retribution. The treacherous coastline that separated Charles Town and Virginia also isolated the colony from the prying scrutiny of its northern neighbors and their Crown-appointed governors.

However much they might have wanted to replicate Barbados, Carolinians instead established a community in Charles Town that resembled more closely the Port Royal of the 1670s in its willingness to welcome vessels that had quite clearly performed acts of piracy.³ Some pirates, like Captain Jacob Hall, were based primarily in Carolina.⁴ Other pirates, like the Frenchman Captain Grammont, simply anchored off the sand bar in Charles Town harbor letting Carolinians come to him while some even joined his crew.⁵ As Alex Moore notes in his essay in this volume, early Carolina shared more with its actually pirate-supporting political sister colony in the Bahamas than say Virginia to the north. The same proprietors controlled both colonies, and Carolina governors often settled political disputes that arose in the capital town of New Providence. The settlements had in common similar daily threats from the wrath of the Spanish empire, and neither produced a reliable staple crop.

Following the outbreak of war sparked by the 1688 Glorious Revolution, some English captains began to seek greater riches in the East India Company's territory by preying on Muslim pilgrimage vessels in the Indian Ocean. One of the first of these "Red Sea men" originated in Charles Town, and their vessels sailed in and out of the harbor for over a decade. Witnesses claimed pirates "came to Charleston with a vast quantity of gold from the Red Sea," where "they were entertained, and had liberty to stay or go to any other place."⁶ The Virginian William Byrd II, always wary of his southern neighbors, blamed this proliferation of piracy on Carolinians who, "by their frequent harbouring of Pyrates, by their receiving and furnishing them with Provisions and other necessaries," have supported these rogues "in Carrying on their Villany." Without these accessories to global crime, it would be "impossible for those

Free booters to subsist."⁷ Francis Nicholson, lieutenant governor of Virginia, estimated Red Sea pirates brought to Charles Town a hundred-man crew with £2,000 apiece. Other witnesses described thousands of gold and silver coins as well as jewels. Nicholson feared that like Jamaica in the 1670s, "if such people be encouraged they will debauch the inhabitants and make them leave planting to follow the same trade."⁸ Although the numbers were likely embellished, they are still staggering considering a common sailor who was fully employed (not a guarantee) made roughly £16 a year.⁹

Historians of early Carolina's relationship with global piracy have traditionally blamed it simply on the corrupt and lawless conditions on mainland peripheries.¹⁰ Even some contemporaries like Governor John Archdale described Carolina's first settlers as men of "most desperate Fortunes" and "ill Livers," led by a council made up of "loose principled Men."¹¹ The proprietors' aggressive efforts to populate the colony using religious toleration and political liberalism as bait did indeed attract a diverse population of disenfranchised individuals. One visitor to Charles Town in 1708 described the populace as "a perfect Medley or Hotch potch made up of Bank[r]upts, pirates, decayed Libertines, Sectaries and Enthusiasts of all sorts" and "the most factious and Seditious people in the whole World."¹²

Such sweeping generalizations about the dissipation of moral values on the imperial periphery, however, could be made in other colonies that did not openly support piracy. Barbados was infamous for its debauched planter class, yet we find few pirates in Bridgetown. The same could be said about Virginia, where by the late seventeenth century the rare pirates unfortunate enough to enter the Chesapeake were most likely to lose their lives. While economic motives obviously went a long way toward explaining the presence of pirates in Carolina, I will argue here that it had as much to do with a complex three-way struggle over power on both sides of the Atlantic, between the Crown, Carolina's Lords Proprietors, and the local ruling gentry, where pirates were really pawns in an elaborate political chess match. The Carolina gentry openly supported piracy to demonstrate local autonomy and their defense of the basic political rights of Englishmen, like the right of property owners to vote or to sit on the jury of a criminal trial. The Lords Proprietors wanted to eradicate piracy largely for fear Crown officials might use criminal behavior as grounds for taking away their charter and their property rights. The Crown would use the piracy problem to implement imperial policies, like the construction of vice-admiralty courts, to undermine the power of both the local gentry and the Lords Proprietors. In turn the Carolina gentry's attempts to negotiate the encroachment of power by both entities across the Atlantic fueled political divisions within the colony that would eventually lead to rebellion.

Recent scholarship on piracy has established a sort of class division between the oppressed labor on board ships and the merchant gentry who exploited them.¹³ The opposite was true in seventeenth century Charles Town, where the

common seamen were not the ones voicing rebellious radical political ideologies. Instead the merchant traders, elected members of the council, and the governors who controlled the port of Charles Town were the ones actively supporting pirates to protest the encroachment of power against the rights ascribed by their charter. For example, although the English Crown and therefore her subjects were nominally at peace with the Spanish, Charles Town and St. Augustine waged a decades-long undeclared war fought by independent sea marauders. Beginning in the early 1680s, governors in both Carolina and the Bahamas issued commissions to men who at one point or another had committed acts of piracy.¹⁴ Carolina's leaders argued that since their charter provided them the right to wage war, sea marauders were "privateers" not "pirates." This same rationale for autonomous military engagement helped the colony in other moments of crisis, especially with native peoples. Taking a middle ground between the Crown and her colonists, the proprietors admitted that their charter permitted Carolinians to pursue the Spanish "in heat of a victory" but not to grant commissions for a deliberate peacetime invasion. Certainly "no rational man can suppose that the subjects of any prince can be permitted to make war upon any of his allies for the reparation of their private injuries, or for any other cause whatever, or that any such power was granted by our patent."¹⁵

In the late seventeenth century Carolinians rarely used the word *pirate* to describe sea marauders, so it was reserved primarily for their political enemies. Francis Nicholson, lieutenant governor of the royal colonies of Virginia and then Maryland, feared the dangers of this flexible legal culture in proprietary Carolina, where "these sort of privateers, or rather pirates, when they have lavishly spent what they unjustly get, are ready to make a disturbance."¹⁶ If captains did not hold a Carolina commission they could purchase one from the Danes in St. Thomas or the French in Petit Guavre. Many South Sea pirates claimed they were mercenaries serving under the Indian king of Darien, ally of Charles II and longtime enemy of the Spanish. These commissions were considered illegal to Parliament or Crown officials but were acceptable in most charter colonies.¹⁷ Others justified their attacks on religious grounds, like the pirates based in Charles Town who attacked Florida missions, mutilating religious images by cutting off their heads, hands, and feet.¹⁸ Governor Seth Sothell had been captured by "Turkish" pirates and enslaved in Algiers on his way to the colony. When he finally did arrive in Carolina, he was inundated with rumors of the torture and captivity of Protestant Carolinians in St. Augustine that likely reminded him of his own harrowing experience. In 1691 the proprietors accused Sothell of granting "commissions to pyrats, for wch wee conceive you had no authority."¹⁹

The Lords Proprietors genuinely feared the support of piracy would give the Crown grounds for quo warranto proceedings that would lead to nullification of their charter and property rights. Alex Moore notes how a commission

given to the notorious pirate John Coxon nearly cost them the Bahamas. They were adamant about protecting their charter primarily out of financial, and too often short-term, interests. They wanted returns on their investments in their own lifetimes despite the difficulty of settlement and the time necessary to establish a staple commodity. There were in fact tangible financial consequences between the semantic divide between privateering and piracy. While a privateer would have to purchase commissions from colonial governors and pay them fees and duties out of their prizes, the booty stolen by "pirates" never changed ownership according to law so those goods could be sued for by the original owner, or they would revert to the Crown or Lord Admiral. This explains why there was no incentive for colonial officials to hunt pirates. The proprietors did not want to relinquish "pirate" booty to the Crown nor "privateer" prizes to their governors so they used the words interchangeably depending on their financial interests. The proprietors ordered financially strapped Carolina governors, surrounded by enemies against whom they were in constant need of fortifications, to not only condemn illicit "privateers" but also to take care that their booty "be kept for our use."²⁰

The main force behind Carolina's foundation was Anthony Ashley Cooper, the Earl of Shaftesbury, and his secretary, John Locke, who produced the first Fundamental Constitutions of Carolina in 1669. Shaftesbury expected his governors to protect Proprietary financial interests but became frustrated as early as 1675 when there were few signs of future profits.²¹ Although they focused on the bottom line, they constructed a remarkably liberal political and legal regime in the hope of enticing potential colonists from places where they had lived under political oppression. They also understood that a flexible system was necessary because they could not anticipate the many contingencies of frontier society. The proprietors as well as Crown observers blamed this flexible and liberal system on the rampant support of piracy. More specifically they argued that a strong local council, a weak executive power, liberal enfranchisement policies, and a remarkably independent jury system fostered piracy in the colony.

Although the governor was initially provided wide legislative and judicial powers, local resistance compelled the Lords Proprietors to diminish this authority when they issued their second (1681) and third (1682) sets of fundamental constitutions.²² These limitations on executive power were meant to woo potential Scottish settlers and continued to prove a strong selling point three decades later, when one observer noted how Carolina governors were "obliged to know their bounds, so far as they may go and not farther."²³ Governors were supposed to be nominated by the Lords Proprietors, usually resident in England, but in reality locals chose most of them during the first decades from among the residents of the colony. They were typically allied with local merchants even before they took their positions, unlike in royal colonies where the Crown appointed and paid for their governors.²⁴

The merchants in the colony council found pirates especially welcome in Charles Town because the community struggled to establish a local medium of exchange. To entice pirates the South Carolina assembly voted to overvalue specie in 1685, so that for decades it maintained the highest extrinsic value in the colonies bolstering the pirates' spending powers.²⁵ By 1690 the proprietors conceded that because "English money is scarce in Carolina, so you may receive our rents in Spanish money" as long as the "money be Mexico or Pilar pieces and of good weight" knowing full well its nefarious origins.²⁶ The first treatise printed in Charles Town in 1732 was *An Essay on Currency*, which recalled how "formerly Silver was very plenty" because the "Privateers brought in great Quantities of Spanish Silver."²⁷

The planters in the council also benefited from the pirate market when they brought slaves, especially because the Royal African Company monopoly severely limited the supply of slaves to colonies outside of Barbados and Jamaica in the late seventeenth century. The depositions of a number of runaway English servants at St. Augustine claimed that Carolina obtained nearly two hundred black slaves from the raid on Vera Cruz alone.²⁸ They also kidnapped local "Indians" enslaved by the Spanish in Cuba and Florida to sell in Carolina and the Bahamas.²⁹ Some pirates also brought slaves and "negroes' gold" to Carolina directly from the coast of west Africa.³⁰

The most active participants in the pirate market were a powerful faction of Anglican Barbadians, experienced colonists who adamantly challenged proprietary policies, known the "Goose Creek men." Many of them combined their support of piracy with the illicit Indian slave trade. In 1684 the Carolina Council appointed Robert Quarry, the colony's secretary and a "Goose Creek man," governor without the proprietors' consent. The proprietors removed Quarry from office after only two months because of his flagrant encouragement of pirates. This offense did little to tarnish his reputation in the community, and he was then elected to the Carolina Council and appointed sheriff of Berkeley County in 1691, a position made available when locals removed the previous sheriff for attempting to halt the pirate trade.³¹

The Admiralty instructed all colonial governors to pass antipiracy statutes modeled on the Jamaica Act in 1684.³² Carolina's Lords Proprietors made a similar request, but the Carolina Council created a statute so purposely filled with caveats and loopholes it was completely ineffectual.³³ They followed this token gesture by actually reinforcing their right to commission privateers and to condemn Spanish prizes.³⁴ Since the governor was ultimately responsible for controlling who entered and left Carolina ports, the proprietors ordered Governor Joseph Morton in 1686 to "do your best to seize and try" pirates under this act along with "any people in Carolina that hold correspondence with them" with little success. The proprietors were unsurprisingly furious then when a pirate named Morgan (not Sir Henry) was openly welcomed after a popular parliamentary vote.³⁵ They feared the Council's behavior would

further antagonize the Spanish, who did indeed attack in 1686, a nominal time of peace, looting and stealing slaves. The proprietors blamed the invasion on the fact that "the people of Carolina have received the pirates who have unjustly burned and robbed the houses of the Spaniards." They asked: "could any rational man doubt that the Spaniards would seek revenge[?]"³⁶

Governor Morton planned retaliation but was halted upon the arrival of his successor James Colleton in the fall of 1686.³⁷ Son of colony Proprietor Sir Peter Colleton, James was the first governor of Carolina (and the only one during the late seventeenth century) to make a concerted effort to wean the colony from its dependence on the pirate market and stem the subsequent escalating private war with Spain. Bitter Carolinians alleged he must have had a treasonous financial arrangement with the new governor of St. Augustine.³⁸ The proprietors ordered Colleton to "secure" Joseph Morton and to investigate Quarry's alleged crimes.³⁹ James Colleton's zeal for eradicating piracy in the proprietors' interest made him so unpopular he refused to call the parliament into session again, and he was eventually banished from the colony.⁴⁰ This was not an anomalous incident since the people rose up against governors who would not support piracy in both the Bahamas and Bermuda.⁴¹

Francis Nicholson, the lieutenant governor of the royal colony of Virginia and later Maryland complained that the governors of proprietary colonies "have power only (like civil magistrates in petty corporations in England) to make municipal laws with the consent of the people."⁴² He complained that the Carolina Council thought no English laws "ought to be in force, and binding to them; without their own consent."⁴³ Indeed Carolina legislatures repeatedly prevented the proprietors as well as the Crown from obtaining copies of their laws and records.⁴⁴ It was true that the Crown possessed practically no power in nonroyal colonies to compel governors to enforce piracy laws or to punish governors who clearly acted against the Crown's interests.⁴⁵ Some even questioned whether royal proclamations, one of the primary instruments used to attack piracy, had any authority in proprietary colonies.⁴⁶ "Private" colonies, meaning both proprietary and charter, did not hold the king's commission and did not correspond directly with the Lords of Trade. One witness deposed before the Board of Trade said that it was well known that the pirates themselves actually believed that because private colonies were not "immediately under the King, they cannot be seized and punished there, which contributes not a little to their boldness."⁴⁷ This political independence meant the kind of intracolony policies that would be necessary to close the pirate market throughout the empire were impossible to enforce. If pirates arrived from the South Sea or Indian Ocean to find that one colony had shut its ports, they needed only to continue on to another.

This relatively democratic balance of power was compounded by wide enfranchisement. A 1693 act passed to regulate elections to the assembly considered all persons worth £10 eligible for election to the General Assembly. The

proprietors believed the council purposefully omitted length of residency as a constraint so that "by this act all the pyrats that were in the shipp that had been Plundering in the Redd Sea: had been Qualified to vote for Representatives in Carolina."⁴⁸ They previously complained that John Boone had been expelled from the Carolina Council because he supplied two known pirates with food and supplies and "concealed part of their stolen goods," but he was soon reelected. The proprietors harangued: "This must not be. Men convicted of such misdemeanours must not be chosen again and restored."⁴⁹

Even with antipiracy laws on the books and an informal "admiralty court" system in place, Carolina's juries generally acquitted the unlucky few men actually charged with piracy. This was such a commonly notorious practice in the private colonies that James II issued a royal proclamation to enforce piracy laws because of "a practice having grown up of bringing pirates to trial before the evidence was ready, and of using other evasions to insure their acquittal."⁵⁰ The Lords Proprietors complained that the juries on these courts were packed with bad apples and ordered Colleton in 1687 to clear them out "and put honest men in their place" who were "unstained by any commerce with privateers."⁵¹ They hoped "the accession of more Morall People to our Province" might lessen the power of the Barbadian faction so that pirates might not "receive any Refreshment." They begged Colleton to make at least one pirate face trial "for we find it necessary to make some Examples thereby to stop this Ruinous Practice of receiving of Pyrates."⁵²

Carolinians bristled at the thought of tampering with the independence of their juries. Christopher Hill argues that the English Civil War raised the stature of trial by jury to a quasi-religious status.⁵³ Just as maritime communities began to support piracy, the faith in juries reached its apex in England and was carried over to the colonies. William Penn's 1670 trial for fomenting riot in England (known as "Bushell's Case") solidified the sanctity of independent juries in England and America. Before this famous trial, juries could be fined or imprisoned for finding a defendant not guilty against the advice of a judge. The jury's refusal to condemn Penn, despite their imprisonment, led Chief Justice Sir John Vaughan to declare that a judge "may try to open the eyes of the jurors, but not to lead them by the nose."⁵⁴

One of the major revisions made in 1682 to Locke's original 1669 Carolina constitution was to create the colony's unique system of selecting juries.⁵⁵ The sheriff wrote the name of each eligible jurymen on an individual piece of paper, and a child drew the jury members' names from a box. A majority of the jury could make a decision without unanimity. Colonial juries could ignore the recommendation of judges, especially when they felt a distant monarch had imposed law on them.⁵⁶ Since such a large percentage of Carolinians participated in the pirate market, it was quite difficult to convince juries that dealing in goods forcibly seized, especially from the Spanish, was a crime.

In his history of the colony, John Oldmixon extolled Carolina's "Manner of impanelling Juries" arguing it "is so much preferable to that of England and all other Colonies."⁵⁷ The Lords Proprietors were not so supportive. In 1693, a year after Red Sea pirates allegedly brought thousands of pounds worth of riches to Charles Town, the Lords Proprietors directly correlated the liberal jury system to the proliferation of piracy. They declared that the provisions of an act designed to provide "indifferent jurymen" were "unreasonable and dangerous, and likely to leave the most enormous crimes, especially piracy, unpunished." It was too easy for the sheriff "to insert the name of some notorious favourer of pirates in every list" of possible jurymen. Jurymen embroiled in the pirate trade could then "be able to Constraine the Rest of the Jury to Consent to what verdict they please." The proprietors requested a nullification of this act to no avail.⁵⁸ The qualifications of jurors remained a hotly contested issue for years while outsiders took for granted Carolina's propensity for acquitting pirates.⁵⁹ In 1697 the governor of Pennsylvania alleged that a French privateer attacked vessels off the coast of Pennsylvania with the help of "an Englishman by name Cross on board, who had been tried for piracy at Carolina and acquitted" without any tangible proof of his claims.⁶⁰

While the Goose Creek men fought with the Proprietary interests into the 1690s, men appointed by the Crown, like Francis Nicholson along with many of the inhabitants of royal colonies, argued the piracy problem was the natural consequence of proprietary regimes in general. In his 1698 memorial to the House of Lords, customs collector Edward Randolph claimed it would be "impossible to suppress piracy" as long as proprietors expected great profits but refused to provide adequate financial support for their governors.⁶¹ Virginian William Byrd II agreed and placed the blame on the excessive power of Carolina's merchant gentry, which allowed them to welcome "their old friends the Pyrates." Likely referring to James Colleton, Byrd noted of governors who even attempted to crack down on the pirate market, "they have been either clapt up into the Logg-house, or else forc't to run for their lives" to safety in the royal colonies. Even a diligent governor possessed too little authority "being onely the Deputy of their fellow Subjects." So beholden to local interests, governors paid no attention to the laws of the mother country and were "in a fair way of shaking off their Dependence upon England."⁶² Some royal officials called for Crown appointment of all governors or to revert all the colonies under Crown control.⁶³

Parliament began paying close attention to antiproprietary rhetoric as it became increasingly aware of and enraged by the blatant support of global piracy in the colonies. They became particularly enraged when one of the most notorious Red Sea pirates in the world, Captain Every, was allegedly welcomed with open arms in the Bahamas by Governor Nicholas Trott. Every's notoriety stemmed from his having captured a vessel belonging to the Great Mughal of

India himself with his own granddaughter on board. Trott's vast haul "made so great a noise in the world," one royal governor called him "the greatest pirate-broker that ever was in America."⁶⁴ Captain Every was never brought to justice, but dozens of his former crewmates settled in the American colonies, and several of his men faced trial in London in 1696. Their depositions exposed just how widespread the active support of piracy was in "private" colonies, and the Crown put the Lords Proprietors on notice.⁶⁵

Parliament passed a number of sweeping acts from 1696 to 1701 meant to not only rein in piracy but to control and administer justice over the governors in private colonies.⁶⁶ Perhaps most threatening was the decision to implement formal vice-admiralty courts in the colonies with officers appointed by the Crown through the Admiralty in London. Although documents refer to Carolina's maritime tribunals as "admiralty courts," they did not have any tangible connection to the Lord High Admiral and Admiralty at all but were instead local modified versions of a common law criminal trial. Instead of the common law, these courts were supposed to be administered by the civil law. This was a codified law meant to assist international trade since foreigners could pursue cases without needing to know local common law traditions. Admiralty law was taught in Doctor's Commons away from the Inns of Court and was relatively unfamiliar to even the best-trained English lawyers. Worst of all, these courts administered justice without the use of a jury of one's peers, which was meant to speed the process in a transitory maritime world and to make justice fair for foreign merchants. By eliminating juries packed with the accessories to piracy, Parliament hoped justice could finally be served. Many members of the Carolina gentry feared the eradication of traditional rights of Englishmen in one fell swoop and suspected their proprietors were complicit.

At this critical juncture in the history of early South Carolina, Nicholas Trott the younger arrived on the scene, nephew of the disgraced governor of the Bahamas. Admitted to the Inner Temple in 1695, Trott was one of the first English-trained lawyers in America.⁶⁷ He was also experienced in the regulation of privateers and the abuses of piracy, having practiced law in Bermuda in the 1680s, where he had been the colony secretary and attorney general. The younger Trott paid for his uncle's reputation because many contemporaries, and even some modern historians, conflated the two men.⁶⁸ Trott was appointed in 1698 by the Lords Proprietors to be attorney general, advocate general of the admiralty court, and naval officer on the recommendation of customs official Edward Randolph.⁶⁹ When he arrived in May 1699, Trott quickly realized that the struggle for power between the proprietors and the Crown not only threatened local autonomy; it divided the colonial gentry. The Crown claimed control over admiralty court appointments, and Jonathan Amory already held the office of advocate general. When Amory died soon after, Trott took both positions at the behest of Governor Blake. The Admiralty subsequently appointed its own advocate general, former governor Joseph Morton.⁷⁰

Not only was Nicholas Trott angry that Joseph Morton usurped his appointment; more important, he feared the new court would challenge the sanctity of the common law and trial by jury. His training at the Inner Temple made Trott well versed in the nearly century-long battle between advocates of the common and civil law that sometimes masked a deeper conflict over the rights of the people (based in specific local precedents) versus the royal prerogative (exemplified by royal proclamations). With the help of Trott's expansive legal knowledge, the Carolina General Assembly, where Trott was elected Speaker, essentially ignored Parliament by establishing an admiralty court of its own making that used the common law and local juries. The assembly also curtailed the power of this court by limiting the fees taken by court officers and opened those officers to fines and countersuits, which hamstringing their ability to pursue cases. References to fourteenth-century precedent in these statutes reveal Trott's fingerprints.⁷¹ As a Crown appointee, Morton feared the acts not only ignored the Crown's explicit commands, but also assured the protection of illicit trade since most jury members were personally complicit.⁷²

Realizing their actions directly challenged both Proprietary and royal authority in Carolina, colonial authorities held a show trial to feign loyalty. In 1700 Captain John Breholt arrived in Charles Town in the *Carlisle* frigate. Breholt had allegedly committed a number of acts of piracy with an international crew. The English members of his crew abandoned him and when they arrived in town pretended to be the victims of piracy rather than its perpetrators. This turned out to be a poor decision because one of their victims was Trott's brother-in-law, Captain William Rhett, one of the most powerful merchants in Carolina, and they arrived in Charles Town when customs official Edward Randolph happened to be in town. They were seized and tried, but in a public show of defiance, not in a "vice-admiralty" court but before a jury in "a Sessions of Oyer & Terminer & Goal Delivery for the Jurisdiction of ye Admiralty," where eight men were convicted and later executed. Breholt on the other hand was acquitted.

Despite the conviction, Governor Blake feared the obvious irregularities of the court proceedings (particularly Trott's unwillingness to refer to the tribunal as a "vice-admiralty court") might give Randolph even more ammunition against proprietary regimes. Trott's enemies claimed Breholt was acquitted because he was the judge's friend. Immediately after, the captain allegedly gathered a new crew of local debtors and pirates he helped escape from the Charles Town jail. He then fitted out a vessel "and made it his business to make it known everywhere that he was bound to ye redd Seas."⁷³ One royal official wrote to the secretary of state that he heard "there were abt half a dousin Pyrats lately hang'd in Carolina, but it was because they were poor" while "the rich ones appear'd publicly and were not molested in the least."⁷⁴ In 1709 a former Red Sea pirate testified that Breholt did in fact sail out of Charles Town harbor in the ship *Carlisle* in 1700 with the "intention to go to

Madagascar a pyrating."⁷⁵ As in many accusations of piracy, it is difficult to surmise which parts of this story were true and which parts were merely accusations against political rivals. Governor Blake removed Trott from his office as naval officer. Edward Randolph defended Trott, believing that it was actually his zeal in condemning the pirates that offended the governor, especially because at least Carolinians were no longer pretending these men were merely "privateers."⁷⁶ The members of the General Assembly were clearly pleased with Trott's attempts to steer a middle ground that protected their autonomy, so they restored him to his former positions.

When Blake died in September 1700, Joseph Morton was next in succession as determined by the charter. The Carolina Council blocked his appointment by voting him "incapable of the Government" in retaliation for accepting the Admiralty's commission as judge of the detested vice-admiralty court.⁷⁷ The Council elected their own governor, James Moore, a Goose Creek man and notorious pirate supporter. Despite the controversy, the Admiralty issued Moore a commission to try pirates in the summer of 1701.⁷⁸ Accepting such a commission, in Trott's eyes, was just as criminal by Moore as it had been by Morton. After Trott voiced his displeasure, Moore had him arrested on charges of sedition.⁷⁹ These simmering confrontations rose to a boil when a locally owned vessel, the *Cole and Bean*, charged with illegal trade, was brought before the vice-admiralty court. In his position as attorney general, chosen by the proprietors, Trott protested the Admiralty's jurisdiction in Carolina by refusing to prosecute the vessel. Joseph Morton claimed that Trott, as prosecutor, actually "espoused the cause of the defendant, and, in the open street and among a crowd of people, fell upon the Informer, and struck him several times, crying out, this is the Informer, this is he that will ruin the country."⁸⁰ A riot ensued.

While Carolinians battled over who controlled the port of Charles Town, former governor Robert Quay, a man once deposed by the proprietors for supporting piracy, returned to the colony. During his absence, Quay was paradoxically appointed vice-admiralty judge of Pennsylvania in 1697, where he battled the local Quaker dignitaries who controlled William Penn's proprietary colony. He was rewarded for his service to the Crown when he was appointed to replace Edward Randolph as surveyor general of his majesty's customs upon his death. When the prodigal son returned to Charles Town, he focused his venom on Carolina's "irregularities," recognizing that the statutes passed against piracy were really designed to thwart the power of the Admiralty. Quay reported to the Board of Trade that Carolinians continued to "entertain and encourage pirates," and through these "disloyal and unjust actions grow rich and get estates." Carolina would soon become like the Bahamas under these proprietors, where "by the corruption, rapine, and extortion of the late Governors, they seemed only to shelter, receive and harbour Pirates, and encourage all manner of illegal trade." In Carolina there was "nothing but anarchy and confusion," while Virginia was a model government led by

"experienced and vigilant Generals." This anarchy stemmed from what he considered radical and "licentious Commonwealth principles." The Carolina gentry considered the inhabitants of royal colonies "slaves and miserable in comparison of themselves."⁸¹

Despite these direct challenges to their charter, Carolinians continued to believe that the colony's fragile position on the border of the Spanish Empire required extralegal measures. This belief compelled Governor Moore to launch a preemptive strike on St. Augustine in 1702, a year of peace, with the assistance of military intelligence provided by pirates.⁸² The general failure of the siege led Moore's enemies to claim that the preemptive strike was really "a Project of Freebooting under the specious Name of War."⁸³ In response the French and Spanish decimated New Providence in the Bahamas. Quay warned the Board of Trade that the cycle of violence would end only with a strong royal governor paid for by the Crown and not beholden to plunder profits.⁸⁴

The Lords Proprietors appointed Nicholas Trott chief justice in 1703, from which post he gauged how many Carolinians feared royal officials like Quay were using the "piracy problem" to eliminate the trial by jury, implement a "foreign" law, remove the charter that protected their liberal form of government as well as religious toleration among other rights, and replace governors beholden to merchant interests with one answerable only to the Crown. This was exactly what happened in Boston in 1704 when Captain John Quelch was tried before a vice-admiralty court presided over by men appointed by the Crown without a jury of his peers leading to a popular uproar.⁸⁵ We know Nicholas Trott and his brother-in-law William Rhett paid attention to the controversial Quelch trial because Rhett later criticized the legal sophistries of the proceedings in a letter to the commissioner of customs.⁸⁶ Clearly Trott and Rhett agreed such an injustice should never happen in Charles Town. Was it really worth losing fundamental rights to preserve an informal legal culture designed to protect the short-term financial rewards of the pirate market?

Trott began to plot a middle ground by gradually formalizing the colony's legal culture while also aggressively protecting what he considered inalienable rights. Over the next few years, he wrote down his own speeches given to Charles Town juries. With the fervent zeal of a missionary, he lectured Carolinians on the history of the common law, warned about the evils of jury corruption, and waxed poetic about the sanctity of oaths. The acquittal of pirates in Charles Town threatened these institutions. One visitor complained in 1709 that Carolina still would accept English laws only if they were passed by the local assembly, making the legal system "a strange sort of Proteus capable of putting on all shapes and figures as occasion requires."⁸⁷ Over the next decade, Trott molded this Proteus into a formal body by assembling Carolina's first written body of laws in 1712.⁸⁸ That year the General Assembly passed another act further limiting the authority of vice-admiralty courts. Trott referred to fourteenth- and fifteenth-century legal precedent to delineate exactly with

"What things the Admiral and his Deputy shall meddle." Soon after, the assembly passed another act against piracy in direct confrontation with the Parliamentary Act of 1700 by assuring that accused pirates would receive a trial by jury composed of twelve men who "inhabited in the shire." Rewriting Charles Town's recent history and instead referring to legal debates under Henry VIII, the act bluntly stated that pirates had gone unpunished *because* they had been tried in admiralty courts "after the course of the civil laws."⁸⁹ The Lords Proprietors were so pleased with Trott's formalization of the colony's laws when he visited London in 1714 that they extended his authority so that no laws could be passed without his approval, a power revoked by a perturbed assembly in 1716.⁹⁰ He even acquired a Proprietary right.⁹¹

Like Jamaica decades before, Carolina transformed into a slave society that produced a staple crop (rice) that actually benefited from the protection of global shipping lanes during the first decade of the eighteenth century. The elimination of the Royal African Company's monopoly in 1698 helped independent traders to rapidly expand the legal supply of slaves, especially in colonies north of the West Indies. After the Treaty of Utrecht (1713), England's involvement in the slave trade rose dramatically. Peter Wood has shown how slaves made up roughly a quarter of the population of Carolina before 1695, which boomed to a majority over the course of less than two decades.⁹² No longer suppliers of slaves, pirates now directly threatened their importation to Charles Town. For example, in 1718 the pirate Charles Vane took a slave ship from Guinea on its way to Carolina. A crew of primarily Spanish and French pirates attacked merchant captain Nicholas Webb on his way to Charles Town with 155 slaves.⁹³ As in Jamaica, these attacks heightened the anxiety over the specter of slave revolt exacerbated by Spanish offers of freedom to Carolina slaves in order to disrupt its economy.⁹⁴

Charles Town's reputation as a pirate nest was difficult to shake. In 1716 James Fellows, an officer of the royal ship *Shoreham*, used to hunt pirates, was arrested for declaring "that all the Inhabitants of this Province were pirates."⁹⁵ Determined to display the colony's transformation, Trott tried pirates in June 1717, leading to the execution of four men. In June 1718, Blackbeard laid siege to Charles Town, capturing two eminent Carolinians, one of whom, Samuel Wragg, was a member of the Council. Blackbeard threatened to kill the men and burn their vessel if he was not provided with a chest of medicine. While Charles Town led the assault on piracy, the Lords Proprietors' more peripheral holdings either passively accepted the sea marauders or succumbed to their superior power. In 1717 pirates descended on New Providence, making Carolina's sister colony their stronghold. Governor Eden in North Carolina was either coerced or bribed by Blackbeard when he arrived in the town of Bath. Soon after, a crew of Virginians captained by a royal navy officer captured Blackbeard and decapitated him.⁹⁶

The Carolina gentry once so welcoming to global pirates now launched their own attacks. Governor Robert Johnson personally took command of a squadron to combat pirates sited off the harbor. According to one eyewitness, after a brutal struggle Johnson's men took the pirates "within Sight of Charles Town: The People seeing the Action from the Tops of their Houses, and the Masts of the Ships in the Harbour, where they had placed themselves for that Purpose." The pirates' booty consisted of both male and female transported convicts. The pirates had planned to take the "virtuous Ladies" to one of the Bahamas Islands, where they would have founded "a most hopeful Colony."⁹⁷

William Rhett with a crew of Carolinians captured Stede Bonnet and his crew after a brutal four-hour engagement leaving twenty-nine of Rhett's own men dead or wounded.⁹⁸ Bonnet had actually owned an estate in Barbados, where he lived with his wife and children and had business relations and sympathizers in Charles Town. One account claimed this "Gentleman Pirate" turned to sea marauding after he went insane "occasioned by some Discomforts he found in a married State."⁹⁹ While his crew was held in the Guard House, Bonnet stayed in the house of a local merchant, under guard at night. Because the colony did not possess a royal commission to try pirates two weeks after Bonnet was brought to Charles Town, the General Assembly voted itself permission by passing another act "for the more speedy and regular trial of pirates." This time, the assembly eliminated many of the loopholes of previous acts but maintained the use of a jury. Unlike its predecessors, the act referred to pirates as not only "enemies to his Majesty and his subjects, but to all of mankind."¹⁰⁰

Evidently not everyone in Charles Town had changed their stance on piracy, and Bonnet and his skipper escaped with local assistance.¹⁰¹ Concerned the rest of his crew might do the same, Nicholas Trott quickly tried all thirty-four in custody on October 28, 1718. Trott insisted on using a jury the way pirates would have been tried in England. He opened the trial with a four-hundred-line legal dissertation on the history and jurisdiction of the court of admiralty from its medieval origins to its present manifestation in Carolina. The treatise quoted extensively from some of the greatest luminaries of common and civil law: Godolphin, Selden, Grotius, Coke, Spelman, Ridley, and many others. Trott even displayed his keen grasp of Greek, Latin, and Hebrew in order to provide adequate translations of ancient definitions of piracy from their original texts, including the legal precedents of ancient Rome and the Old Testament, one of his particular realms of expertise. His arguments in favor of a guilty verdict were so convincing and persuasive, the local jury found twenty-nine men guilty. The indomitable William Rhett recaptured Bonnet the following day, just in time to witness the largest mass hanging on the American mainland at Chalk Point.

Bonnet was finally put on trial on November 10 and convicted after a long speech by Trott that resembled an execution sermon citing the Bible twenty-two

times. Despite his success in prolonging the case, Bonnet was executed on December 10, 1718. The Bonnet trial did more than simply put to rest Charles Town's reputation as a pirate nest. The trial was printed, along with Trott's speech, in London in 1719, and both were again reprinted in Captain Charles Johnson's widely popular *General History of the Pirates* (1724).¹⁰² Nicholas Trott transformed a place synonymous with informality into the standard bearer of piracy law, and his treatise provided precedent into the twentieth century, making it arguably one of English America's first great contributions to the "law of nations."¹⁰³

For decades Trott helped protect Carolina from the encroaching power of the Crown and the Admiralty. As a show of gratitude, Trott was made a proprietor in his own right. Unfortunately for him the rising planter class had become increasingly frustrated with proprietors' inability to protect their property and interests. Envisioning the long-term benefits of becoming an important part of an integrated empire where piracy did more harm than good, they became determined that as long their natural rights were safe they were better off under a royal regime.¹⁰⁴ When word spread that the Spanish were planning a massive assault in 1719, Carolinians rose up in rebellion against the Lords Proprietors, ousted Trott from office, and begged for royal protection. The Admiralty sent the *Flamborough* to protect Charles Town's harbor.¹⁰⁵ Trott returned to London, where he presented a printed copy of the trial to the Society for the Propagation of the Gospel in 1720. He later published *The Laws of the British Plantations* (1721) and was awarded a doctorate in civil law from Oxford in 1720 and doctor of laws degree from the University of Aberdeen in 1726. In 1736 he completed *The Laws of the Province of South Carolina*, codifying the colony's statutes up to 1719.

To bring order to the colony, the Crown appointed none other than royalist pirate hunter Francis Nicholson in 1721. After 1725 a sloop protected the coast that ranged as far north as the Chesapeake. That summer the Carolina Council feared that if the Bahamas continued to be "a nest of Pyrates," they would "render us in a manner tributary to the latter."¹⁰⁶ Working with Virginia's Governor Spotswood, Nicholson aggressively attacked the last vestiges of the pirate market between New Providence and Charles Town, only this time with wide local support.¹⁰⁷ When Carolina Captain James Sutherland captured a pirate vessel with thirty-five men off the bar of Charles Town in May 1725, he issued a petition to the Crown for a reward signed by "135 of the principal inhabitants."¹⁰⁸

In 1729 the Crown officially purchased North and South Carolina, appointing Robert Johnson royal governor of the latter. When Johnson finally arrived in Charles Town in 1731, his speech to the General Assembly proclaimed that royal government would finally provide the "Security we have been long praying for, the good Effects of which we only experience by the Safety we enjoy,

as well in our Trade by the Protection of our Ships" from the insolence of pirates.¹⁰⁹ Now both Charles Town merchants and planters were formally part of an integrally connected British Empire.

Notes

The majority of this essay originated in my dissertation, "The Pirate Nest: The Impact of Piracy on Newport, Rhode Island and Charles Town, South Carolina 1670-1740" (Ph.D. diss., Harvard University, 2006), under the guidance of Laurel Thatcher Ulrich, Joyce Chaplin, and Jill Lepore.

1. Nuala Zahedieh, "Trade, Plunder, and Economic Development in Early English Jamaica, 1655-89," *Economic History Review* 39, no. 2 (May 1986): 205-22.
2. For more on the Indian slave trade, see Alan Galloway, *The Indian Slave Trade: The Rise of the English Empire in the American South, 1670-1717* (New Haven: Yale University Press, 2002).
3. For example, three vessels left Charles Town in 1687 headed for the South Sea "but were beaten back by foul weather at Magellan's strait, and forced into Providence." Lt. Gov. Molesworth to William Blathwayt, December 7, 1687, in *CSPC, 1685-1688*, no. 1555; Sir Thomas Lynch to the Lords of Trade and Plantations, September 12, 1683, *CO 1/52*, no. 95.
4. Sir Thomas Lynch to Secretary Leoline Jenkins, July 26, 1683, in *CSPC, 1681-1685*, no. 1163; Sir Thomas Lynch to Lords of Trade and Plantations, February 28, 1684, in *CSPC, 1681-1685*, no. 1563.
5. Lt. Gov. Molesworth to William Blathwayt, October 5, 1686, in *CSPC, 1686-1688*, no. 897.
6. Paper submitted to the Commissioners of Customs by Edward Randolph, August 17, 1696, in *CSPC, 1696-1697*, no. 1491; see also *CO 5/1287*, p. 101-2, 127, March 21, 1698.
7. *Representation of Mr. Byrd Concerning Proprietary Governments* (1699), Brock Collection, Huntington Library, San Marino, Cal., mss. 744; Reports of typical Red Sea pirate ventures that began or ended in Charles Town are in Names of fifteen Red Sea pirates who came to Pennsylvania from South Carolina in 1692, August 17, 1696, in *CSPC, 1696-1697*, no. 149X; Memorial of Sir Robert Robinson to the King, November 23, 1696, in *CSPC, 1696-1697*, no. 416; Examination of John Dann, mariner, of Rochester, August 3, 1696, in *CSPC, 1696-1697*, no. 517IV.
8. Lt. Gov. Nicholson to Lords of Trade and Plantations, July 16, 1692, in *CSPC, 1689-1692*, no. 2344; for more estimates see Gov. the Earl of Bellomont to Secretary Vernon, January 3, 1701, in *CSPC, 1701*, no. 7; Randolph, *A Discourse About Pyrates* (1696), Ms. GOS 9, National Maritime Museum, Greenwich, U.K.
9. George F. Steckley, "Litigious Mariners: Wage Cases in the Seventeenth-Century Admiralty Court," *Historical Journal* 42, no. 2 (June 1999): 319.
10. For example, see Shirley Hughson, *Blackbeard and the Carolina Pirates* (Hampton, Va.: Port Hampton Press, 2000), 12; Louis B. Wright, *South Carolina* (New York: Norton, 1976), 16.

11. Quoted in Oldmixon, *The British Empire in America* (London: 1708), 336.
12. Frank J. Klingberg, ed., *Carolina Chronicle: The Papers of Commissary Gideon Johnston 1707-1716* (Berkeley: University of California Press, 1946), 22.
13. For example see Marcus Rediker, *Villains of All Nations* (Boston: Beacon Press, 2004); Rediker and Peter Linebaugh, *The Mary-Headed Hydra* (Boston: Beacon Press, 2001); Gabriel Kuhn, *Life under the Jolly Roger* (Oakland, Cal.: PM Press, 2010).
14. The most infamous was Captain Coxon: William Blathwayt to Lord Craven, Whitehall, August 31, 1682, CO 1/49, nos. 49, 401; Journal of Lords of Trade and Plantations, August 31, 1682, CO 391/4, pp. 50-52.
15. Lords Proprietors to Gov. James Colleton, March 3, 1687, in CSPC, 1685-1688, no. 1161; See also Lords Proprietors to Gov. James Colleton, October 10, 1687, in CSPC, 1685-1688, no. 1457.
16. Lt. Gov. Nicholson to Lords of Trade and Plantations, July 16, 1692, in CSPC, 1689-1692, no. 2344.
17. Symon Musgrave to [Governor Sir Thomas Lynch?], September 29, 1682, in CSPC, 1681-1685, no. 709; also Sir Thomas Lynch to Secretary Sir Leoline Jenkins, November 6, 1682, no. 769; Sir Thomas Lynch to the Lord President of the Council, June 20, 1684, no. 1759; Lieutenant Governor Hender Molesworth to William Blathwayt, February 3, 1684, no. 2067.
18. J. LeitchWright Jr., "Andrew Ranson: Seventeenth Century Pirate?" *Florida Historical Quarterly* 39, no. 2 (October 1960): 142.
19. Private Instructions of the Lords Proprietors to Seth Sothell, November 8, 1691, CO 5/288, pp. 52, 196.
20. Lords Proprietors to Paul Grimball, October 17, 1687, in CSPC, 1685-1688, no. 1465; Sirmans, *Colonial South Carolina*, 41; Earl of Craven to Lords of Trade and Plantation, May 27, 1684, in CSPC, 1681-1685, no. 1707.
21. Earl of Shaftesbury to the Governor and Council at Charles Town, June 10, 1675, in CSPC, 1675-76, no. 581.
22. Fundamental Constitutions of Carolina, January 12, 1682, in CSPC, 1681-1685, no. 359; Fundamental Constitutions of Carolina, August 17, 1682, no. 656. See also nos. 496-98 and no. 807.
23. Nairne, quoted in *Selling a New World*, ed. Jack Greene (Columbia: University of South Carolina Press, 1989), 44, 46, 48-49.
24. Sir Richard Kyle came from Ireland but died soon after his arrival, so John Archdale was the only governor to sail across the Atlantic with the intention of becoming governor.
25. Gary L. Hewitt, "The State in the Planter's Service," in *Money, Trade, and Power: The Evolution of Colonial South Carolina's Plantation Society*, ed. Jack P. Greene, Rosemary Brana-Shute, and Randy Sparks (Columbia: University of South Carolina Press, 2001), 59.
26. Robert M. Weir, *Colonial South Carolina: A History* (Columbia: University of South Carolina Press, 1997), 39; Lords Proprietors of Carolina to Paul Grimball, October 6, 1690, in CSPC, 1689-1692, no. 1094; Lords Proprietors of Carolina to [Gov. Colleton?], October 18, 1690, in CSPC, 1689-1692, no. 1118.

27. *An Essay on Currency, Written in 1732* (Charles Town, 1734). One observer described the currency of Charles Town in 1710 as composing French Pistoles, Spanish and Arabian Gold, Dutch and German dollars, Peruvian and Mexican pieces of eight, but there was very "little English money": Greene, *Selling a New World*, 57. See also Gov. the Earl of Bellomont to the Board of Trade, June 22, 1700, in CSPC, 1700, no. 580.
28. Wood, *Black Majority* (New York: Knopf, 1975), 44.
29. Sir Thomas Lynch to Lords of Trade and Plantations, September 29, 1682, CO 1/49, no. 66.
30. Lords Proprietors to Gov. Joseph West, March 13, 1685, in CSPC, 1685-1688, no. 59.
31. Lords Proprietors of Carolina to Gov. Joseph Morton, February 15, 1686, in CSPC, 1685-1688, no. 568; Lords Proprietors to Gov. Colleton, March 3, 1687, in CSPC, 1685-1688, no. 1165; Instructions to James Colleton, March 3, 1687, CO 5/288, p. 51.
32. Sir Thomas Lynch to Lords of Trade and Plantations, February 28, 1684, in CSPC, 1681-1685, no. 1563; Sir Leoline Jenkins to the Governors of all the Colonies, March 24, 1684, in CSPC, 1681-1685, no. 1605.
33. See Acts of the Privy Council (Colonial), February 27, 1683-84, vol. 2, no. 142; Lords Proprietors of Carolina to the Governor of Carolina, March 13, 1684, in CSPC, 1681-1685, no. 1588. There are different antipiracy acts from 1685 to 1687. See *Statutes at Large*, 2:7-9, 25-27.
34. *Statutes at Large*, 2:9-10.
35. Lords Proprietors to Gov. Morton, April 22, 1686, in CSPC, 1685-1688, no. 639.
36. Lords Proprietors to Gov. Colleton, March 3, 1687, in CSPC, 1685-1688, no. 1161.
37. Gov. Richard Cony to the Earl of Sunderland, December 2, 1686, in CSPC, 1685-1688, no. 1029.
38. [Unknown] to Seth Sothell, [1688?], in CSPC, 1685-1688, no. 1962.
39. Instructions to Gov. James Colleton, March 3, 1687, in CSPC, 1685-1688, no. 1165.
40. Lords Proprietors to the Governor, Deputies, and Officers of South Carolina, May 27, 1691, in CSPC, 1689-1692, no. 1535; Hughson, *Blackbeard*, 29.
41. See Declaration of Captain George St. Loe respecting Bermuda, November 27, 1687, in CSPC, 1685-1688, no. 1533; Haskett to the Board of Trade, July 13, 1702, in CSPC, 1702, no. 746.
42. The Lt. Gov. Francis Nicholson to Lords of Trade and Plantations, June 10, 1691, in CSPC, 1689-1692, no. 1583.
43. Gov. Francis Nicholson to the Board of Trade, August 20, 1698, *Archives of Maryland* (Baltimore: Maryland Historical Society, 1883-), 23:488-503.
44. Lords Proprietors to Seth Sothell, May 13, 1691, in CSPC, 1689-1692, no. 1498.
45. Crown instructions to colonial governors bypassed proprietary colonies like South Carolina. See Labaree, *Royal Instructions*, 1:212.

46. Memorandum of Lords of Trade and Plantations, February 27, 1684, in CSPC, 1681-1685, no. 1560. See also no. 1561, no. 1578, no. 1582.
47. Jeremiah Basse to William Popple, July 26, 1697; *Documents Relating to the Colonial History of the State of New Jersey* (Trenton: New Jersey Historical Society, 1880-1928), 2:157-58.
48. Lords Proprietors of Carolina to the Deputies and Council of South Carolina, April 12, 1693, in CSPC, 1693-1696, no. 270; Lords Proprietors write to Carolina, April 10, 1693, in CHJ; *Commissions and Instructions from the Lords Proprietors to Public Officials of South Carolina, 1685-1715*, ed. A. S. Salley (Columbia: Historical Commission of South Carolina, 1916), 63.
49. Lords Proprietors to Governor Colleton, March 3, 1687, in CSPC, 1685-1688, no. 1161.
50. Circular letter from the King, October 13, 1687, in CSPC, 1685-1688, no. 1463.
51. Lords Proprietors to [Gov. Colleton], October 10, 1687, in CSPC, 1685-1688, no. 1457.
52. Lords Proprietors to Governor James Colleton, March 3, 1687, in CSPC, 1685-1688, no. 1165; Instructions to James Colleton, March 3, 1687, CO 5/288, p. 51.
53. Christopher Hill, *The World Turned Upside Down*, (New York: Vikings, 1972), 217-19; J. M. Beattie, *Crime and the Courts in England 1600-1800* (Princeton: Princeton University Press, 1986), 314.
54. Frederick B. Tolles and E. Gordon Alderfer, eds., *The Witness of William Penn* (New York: Macmillan, 1957), 85-86; Craig Horle, "Judicial Encounters with Quakers, 1660-1688," *Journal of the Friends Historical Society* 54, no. 2 (1977).
55. Lords Proprietors to Governor of Carolina, September 30, 1683, in CSPC, 1681-1685, no. 1284.
56. William Nelson, *Americanization of the Common Law* (Cambridge: Harvard University Press, 1975), 165-66, 3-4; Hendrik Hartog, "Distancing Oneself from the Eighteenth Century," in Hendrik Hartog, ed., *Law in the American Revolution and the Revolution in the Law* (New York: New York University Press, 1981), 241.
57. Sirmans, "Politics in Colonial South Carolina: The Failure of Proprietary Reform, 1682-1694," *WMQ* 23, no. 1 (1966): 34-35; Lords Proprietors write to Carolina, April 10, 1693, in CHJ; John Oldmixon, *British Empire*, 493; See Jack P. Greene, ed., *Selling a New World*, 48-49; see also Thomas Nairne to [Earl of Sunderland?], July 28, 1709, in CSPC, 1708-1709, no. 662.
58. Lords Proprietors of Carolina to the Deputies and Council of South Carolina, in CSPC, 1693-1696, April 12, 1693 no. 270; Lords Proprietors write to Carolina, April 10, 1693, in CHJ, no. 1, p. 58.
59. Proposals for a Jury Act, November 21, 1695, in CHJ, no. 1, p. 58.
60. Governor Markham to William Penn, February 13, 1697, in CSPC, 1697-1698, no. 76xii.
61. Edward Randolph to William Popple, May 12, 1698, in CSPC, 1697-1698, no. 451.

62. *Representation of Mr. Byrd Concerning Proprietary Governments* (1699), Huntington Mss., BR 744.
63. Lieut. Gov. Nicholson to Lords of Trade and Plantations, November 13, 1691, in CSPC, 1689-1692, no. 1897.
64. Gov. the Earl of Bellomont to the Board of Trade, August 28, 1699, in CSPC, 1699, no. 746. Letters describing the incident are in the Records of the Lords Proprietors of Carolina and the Bahamas, CO 5/289, f. 26, 35, 69, 72; Inhabitants of the Bahamas Islands to the Board of Trade, April 7, 1702, in CSPC, 1702, no. 307; The Case of Nicholas Trott the elder, Esq., Late Gover. of the Bahama Islands Relating to the Ship Charles F's Fancey Henry Every, Sloane Manuscripts, British Library, 2902, f.270.
65. India Office Records, British Library, H/36 p. 199; *The Tryals of Joseph Dawson, Edward Forseth, William May, William Bishop, James Lewis, and John Sparkes for several piracies and robberies...* (London, 1696).
66. See Hanna, "The Pirate Nest," 174-217.
67. Randall Bridwell, "Mr. Nicholas Trott and the South Carolina Vice Admiralty Court: An Essay on Procedural Reform and Colonial Politics," *South Carolina Law Review* 28 (1976): 184.
68. Records clearly report the attendance of "Nicholas Trott, senior and junior." *Journal of Lords of Trade and Plantations*, December 20, 1692, in CSPC, 1689-1692, no. 2698; see also no. 2700; William Popple of the Board of Trade distinguished between the "Trott who resides now in Carolina" as someone of "good Character" as opposed to the Trott who was "formerly Governor of the Bahama Islands" who "lives under many ill Imputations" in a letter dated March 5, 1701, in BPRO-SC, 27:2. For confusion, see Oldmixon, *British Empire in America*.
69. A further list of officers suggested for the Admiralty Courts in the Colonies, August 10, 1696, in CSPC, 1696-1697, no. 1205; L. Lynn Hogue, "Nicholas Trott: Man of Law and Letters," *SCHM* 76, no. 1 (January 1975): 29.
70. Sirmans, *Colonial South Carolina*, 49, 52-53, 76.
71. October-November, 1700, in CHJ; *Statutes at Large*, 1:446-47.
72. Joseph Morton to the Board of Trade, August 29, 1701, in CSPC, 1701, no. 804; Robert Quarry to the Lords of the Admiralty, August 28, 1701, in CSPC, 1701, no. 798.
73. *Commissions and Instructions from the Lords Proprietors*, 133-35, 138-39.
74. Gov. the Earl of Bellomont to Mr. Secretary Vernon, January 3, 1701, in CSPC, 1701, no. 7.
75. Deposition of Laurence Waldron, barber-chyrurgeon, May 17, 1709, in CSPC, 1708-1709, no. 908ii.
76. Edward Randolph to the Board of Trade, February 19, 1701, in CSPC, 1701, no. 180.
77. Joseph Morton to the Board of Trade, August 29, 1701, in CSPC, 1701, no. 804.
78. Gov. Moore to Gov. Nicholson, August 12, 1701, in CSPC, 1701, no. 1042xid.
79. Hogue, "Nicholas Trott," 11.
80. Joseph Morton to [Francis Nicholson?], August 21, 1701, in CSPC, 1701, no. 1042xia; Sirmans, *Colonial South Carolina*, 82.

81. Col. Quary to the Board of Trade, March 26, 1702, in *CSPC*, 1702, no. 260; Col. Quary to the Board of Trade, June 5, 1700, in *CSPC*, 1700, no. 500; see *South Carolina Historical Society Collections*, 2:205; Leo Francis Stock, ed., *Proceedings and Debates of the British Parliaments respecting North America* (Washington, D.C.: Carnegie Institution of Washington, 1930), 3:19.
82. June 17, 1707, in CHJ.
83. Representatives of South Carolina to the Earl of Bathe, February 20, 1702, in *CSPC*, 1702, no. 381; Charles W. Arnade, *The Siege of St. Augustine in 1702* (Gainesville: University of Florida Press, 1959).
84. Col. Quary to the Board of Trade, October 15, 1703, in *CSPC*, 1702-1703, no. 1150.
85. Hanna, "The Pirate Nest," chapter 7.
86. Report of Col. Wm. Rhett to the Commissioners of Customs, October 3, 1716, *Calendar Of Treasury Papers, 1714-1719, preserved in the Public Records Office* (London: Public Record Office, 1883), no. 40.
87. Thomas Nairne to [Earl of Sunderland?], July 28, 1709, in *CSPC*, 1708-1709, no. 662.
88. *Statutes at Large*, 7:440-41; see L. Lynn Hogue, "An Edition of 'Eight Charges Delivered . . . by Nicholas Trott, Esq.'" (Ph.D. diss., University of Tennessee, 1972). The original is in the Charleston Historical Society. See also Hogue, "Nicholas Trott," 25-34.
89. *Statutes at Large*, 7:446, 465-66.
90. Sirmans, *Colonial South Carolina*, 106.
91. Lords Proprietors of Carolina to the Deputies and Council of South Carolina, April 9, 1709, in *CSPC*, 1708-1709, no. 455.
92. Wood, *Black Majority*, 131; Sheridan, *Sugar and Slavery*, 249-53.
93. *American Weekly Mercury*, January 2, 1721. See also June 2, 1720, June 16, 1720, and July 13, 1721.
94. See Col. Jennings to the Board of Trade, March 21, 1709, in *CSPC*, 1708-1709, no. 421. For example, the governor of Bermuda felt pressure to let pardoned pirates have their booty for fear that they might instigate a slave uprising. Colonel Bennet to William Poppel, 1718, Bermuda Records, CO 37/10 f.9; List of negroes etc. taken to St. Augustine, December 5, 1722, in *CSPC*, 1722-1723, no. 427iv; Gov. Nicholson to the Governor of St. Augustine, March 12, 1721, in *CSPC*, 1722-1723, no. 427xxix; Instructions for Francis Young, May 9, 1722, in *CSPC*, 1722-1723, no. 130i.
95. July 12, 1716, in *BPRO-SC*, vol. 20.
96. See Lindley S. Butler, *Pirates, Privateers, and Rebel Raiders of the Carolina Coast* (Chapel Hill: University of North Carolina Press, 2000), 25-50.
97. *A General History of the Pyrates*, ed. Manuel Schonhorn (Mineola, N.Y.: Dover, 1999), 302-3.
98. *Boston News-Letter*, December 29, 1718; Carolina Council Minutes, CO 5(427), f. 4.
99. Charles Johnson, *The General History of the Pyrates* (London, 1724), 91.

100. Once more the statute referred to such a trial as "the court of admiralty sessions." *Statutes at Large*, 7:41; see High Court of Admiralty Records 1/55 f. 1-4, National Archives, U.K.
101. *Boston News-Letter*, November 24, 1718.
102. *The Tryals of Major Stede Bonnet and other Pirates* (London, 1719); Johnson, *General History*, 103-12.
103. Sir Robert Phillimore, *Commentaries on International Law* (Philadelphia, 1854), 1:286-87; Edwin D. Dickinson, "Is the Crime of Piracy Obsolete?" *Harvard Law Review* 38, no. 3 (January 1925): 337-39, 342, 351; Francis Hargrave, ed., *A Complete Collection of State Trials*, 4th ed., 11 vols. (London: Printed by T. Wright for C. Bathurst and others, 1776-81), 6:155-88; Thomas Bayly Howell, ed., *Cobbett's Complete Collection of State Trials*, 33 vols. (London: Printed by T.C. Hansard for Longman, Hurst, Rees, Orme, and Brown, 1809-26), 15:1231-1302.
104. Sirmans, *Colonial South Carolina*, 116; Sherman, *Robert Johnson*, 37.
105. Stock, *Proceedings*, 5:127; A 1979 article by Peter Hoffer and N. E. H. Hull claimed Trott was an early example of impeachment in America, but John E. Douglass cleared this up in "Impeaching the Impeachment: The Case of Chief Justice Nicholas Trott of South Carolina," *SCHM* 84, no. 2 (April 1993): 102-16.
106. South Carolina Sessional Papers, August 16, 1721, CO 5(425 p. 60; Testimonials to Thomas Curphey, November, 1722, in *CSPC*, 1722-1723, no. 368i-iii.
107. Messrs. Buck, Harris and Hyde to the Board of Trade, June 11, 1723, in *CSPC*, 1722-1723, no. 579; Gov. Nicholson to the Board of Trade, August 21, 1723, in *CSPC*, 1722-1723, no. 687.
108. Petition of Capt. James Sutherland to the King, May 8, 1730, in *CSPC*, 1730, no. 216, no. 216i-ii.
109. Quoted in Oldmixon, *British Empire*; Sirmans, *Colonial South Carolina*, 162.