

3 All at Sea

Locke's Tyrants and the Pyrates of Political Thought¹

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Abstract

Although the concept of pirates as *hostes humani generis* appears to be axiomatic, it is argued in this chapter that piracy elicited more ambiguous responses from philosophers and lawyers in late seventeenth-century Britain. Pirates were merely one among a pantheon of archetypal enemies of good order. By examining references to piracy in the work of the English political philosopher John Locke in particular, it is argued here that pirates vied with tyrants for the title of “common enemy of all humankind.” Locke’s prevarications were mirrored by continuing doubts and legal debates about who the *hostis humani generis* really was.

Keywords: *hostis humani generis*, law, political philosophy, John Locke, tyrants, sovereignty

Introduction

Captain Charles Johnson’s *General History of the Pyrates* (1724) has long intrigued scholars, not least for its ambivalent tone towards its eponymous subjects – the “pyrates.” With both shocked outrage and breathless fascination, the book presented brief biographies of maritime violence and plunder, embellished and invented from the life stories some of the most notorious of Europe’s pirate captains. The *General History* confirmed the figure of

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the “pyrate” very much as Cicero had defined it in the first century BCE, as the common enemy of all humankind.² Yet, the implication of Johnson’s text was that the “pyrate” could not literally be a *hostis humani generis* because an “enemy” was one who lived within a domain constituted by sovereign law. Hence, the “pyrate” could not be an “enemy” because they placed themselves outside of any sphere of sovereignty whatsoever. In the words of the “Abstract of the Civil Law and Statute Law now in Force, in Relation to Piracy,” included towards the end of the book:

Though Pyrates are called common Enemies, yet they are properly not to be term’d so. He is only to honour’d with that Name, says Cicero, who hath a Commonwealth, a Court, a Treasury, Consent and Concord of Citizens, and some Way, if Occasion be, of Peace and League: But when they have reduced themselves into a Government or State, as those of Algier, Sally, Tripoly, Tunis, and the like, they then are allowed the Solemnities of War, and the rights of Legation.³

The *hostis humani generis* subsisting fitfully on the cruel seas beyond the reach of law was a fiction of territorial sovereignty. As Carl Schmitt put it, the European tradition of public law was inscribed with a fundamental binary opposition between land and sea. Land was the seat of sovereignty and law, whereas the seas were conceptualized as a realm of freedom over which sovereign power did not extend, or had only a tenuous reach.⁴ In this context, the pirate inhabited an indeterminate domain; and hence their lives, however uncertain, were a defiance to the idea of sovereign states.⁵ In Schmitt’s narrative, the perpetual statelessness of pirates was a necessary problem only up until the end of the eighteenth century. In the nineteenth, territorial states had more effective means to project force at sea, and international law followed in their wake. By century’s end, the anathema of the sovereign-less, stateless pirate had simply become an anachronism, not only in Europe but in most waters around the world.

2 Cicero, *De Officiis* [*On Duties*], ed. by M.T. Griffin and E.M. Atkins, (Cambridge: Cambridge University Press, 44BCE/1991) Book III, § 107, 141–142.

3 “An Abstract of the Civil Law and Statute Law now in Force, in Relation to Piracy,” in Charles Johnson, *A General History of the Pyrates from their First Rise and Settlement in the Island of Providence, to the Present Time*, 2nd edn. (London: T. Warner, 1724), 424.

4 Carl Schmitt, “The Concept of Piracy (1937),” *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 2, no. 1 (2011), 27–29.

5 Amedeo Policante, *The Pirate Myth: Genealogies of an Imperial Concept* (Abingdon: Routledge, 2015), 178.

Seductive as Schmitt's rationalization of piracy's great historical irrelevance is, I argue here that the ambivalence manifested in Johnson's text reflects a persistent ambiguity represented by the figure of the "pyrate" in British political thought between 1690 and 1730 – a period often referred to as the "Golden Age" of European or Atlantic piracy.⁶ For those engaged in political debate in these decades, "pyrates" embodied versatile possibilities, beyond their designation as *hostis humani generis*, and yet short of being consigned to a watery realm of perpetual sovereign-less, insecurity.

Pirates in the Mist

The *General History* was published to capitalize on the currency of public fear and fascination in piracy, at a time when Britain was waging a campaign to exterminate pirates from distant seas. The book presented piratical exploits in the Caribbean, across the Atlantic, and into the Indian Ocean and Red Sea. The British public's interest in the pirates committing such far-flung crimes had been fed by a range of sensational trials, widely reported in periodicals and further publicized in plays and broadsheets.⁷ One of the most notorious of these cases involved the Englishman, Henry Avery or Every (1659–?). He had caused an international scandal by making himself fabulously rich in 1695 with a raid on the *Ganj-i-Sawai*, a ship belonging to the Mughal Emperor Aurangzeb, returning wealthy and well-connected pilgrims from Mecca across the Red Sea. Though Avery and his crew tried to lie low by establishing their own pirate community on Madagascar, the British attempted to assuage the Mughal Emperor's outrage by staging a public trial in 1696. While Avery managed to disappear without trace, members of his crew had been captured, were found guilty, and executed.⁸ The trial of Avery's crew (followed soon after by the trial and execution of William Kidd in 1701 for other acts of piracy committed in the Indian Ocean) reinforced an evident public interest in piracies on seas far from Britain. The idea took hold in the public imagination of Avery as a "successful pirate," and a host of

6 On piracy in the "Golden Age," see: Marcus Rediker, *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates and Anglo-American Naval World, 1700–1750* (Cambridge: Cambridge University Press, 1987); P. Linebaugh and M. Rediker, *The Many Headed Hydra. Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston, MA: Beacon Press, 2000).

7 D.R. Burgess, "Piracy in the Public Sphere: The Henry Every Trials and the Battle for Meaning in Seventeenth-Century Print Culture," *Journal of British Studies* 48 (2009): 887–913.

8 *Ibid.*, 890–893.

writers fancifully reimagined him not only escaping the law, but defending the virtue of the women aboard the Mughal's ship.⁹ Captain Charles Johnson was one among others who ventured into this domain of public taste with a play that portrayed Avery as a comic hero.¹⁰ When he later came to write the much more successful *General History* he chose to begin it by recounting Avery's exploits. Here, though, Johnson told a rather different tale: one that did not culminate in comedy and chivalry, but in the perpetual jealousies, mutual fears, and irremediable insecurities into which these "successful" pirates sank on Madagascar. The mystery that still surrounds the real identity of Captain Charles Johnson may help to explain why he took such a different view. Despite its lurid tales of far distant piracies in exotic locations, the book may well have been fuelled by a mortal dread far closer to home.

The *General History* was long thought to have been the work of the English journalist, writer, and controversialist Daniel Defoe (1660–1731). More recently, another candidate has been suggested as author, namely, Defoe's erstwhile employer: the former sailor and anti-Whig journalist, Nathaniel Mist (?–1737).¹¹ Mist was the editor of the eponymous *Mist's Weekly Journal: or Saturday's Post with Fresh Advices Foreign and Domestick* between 1716 and 1728, followed by *Fog's Weekly Journal* from 1728 to 1737. Evidence suggests that Mist was a Jacobite, an adherent to the exiled Stuart dynasty of Scotland and England. If so, he would have shared with at least some among the pirate crews an opposition to the political establishment that arose from the deposition of the last Stuart king of Britain, James II (1633–1701; reigned 1685–1688), in the Glorious Revolution of 1688. The charge of piracy had been employed by the Whig government, as we shall see, in the early 1690s, in widely publicized trials to deny the validity of commissions issued by James authorizing privateers to prey upon British shipping.¹² If Mist was a Jacobite, and was also the author of the *General History*, it would help to explain the ambivalence of the text. Whether or not he authored the work, *Mist's* provided the first and glowing review of the first edition of the *General History*.¹³

9 F. Burwick and M.N. Powell, *British Pirates in Print and Performance*, (New York: Palgrave, 2015), 15–32.

10 Charles Johnson, *The Successful Pyrate. A Play*, 2nd edn., (London: Bernard Lintott, 1713).

11 Arne Bialuschewski, "Daniel Defoe, Nathaniel Mist, and the 'General History of the Pyrates,'" *Proceedings of the Bibliographical Society of America* 98, no. 1 (2004): 21–38.

12 The outcome of these trials was Matthew Tindal's *An Essay Concerning the Laws of Nations and the Rights of Sovereigns* of 1694. See below.

13 Letter 35, in *A Collection of Miscellany Letters, selected out of Mist's Weekly Journal*, fourth volume, (London: printed for T. Warner, 1727), 194–198.

Mist's review expressed some admiration for the subjects of the book, and wondered how, "a Parcel of Out-Laws who were Enemies to all Men, and all men so to them, whom no Land would receive, could subsist upon an Element which does not furnish the Necessaries of Life to Man." More remarkable, however, was that, "these Men whom I look'd upon to be no better than so many Ruffians, did not cut one another's Throats, upon the least Division, or that there were not continual Divisions amongst them." The *General History* was unusual in explaining how the "pyrates" were "governed amongst themselves" by a "Policy" that "kept them in Peace amongst one another [...] under the Title of Articles" establishing a "System of Government, which I think, (considering what the persons were who fram'd it) as excellent for Policy as anything in *Plato's Commonwealth*."

Mist certainly exploited the critical potential of pirates and their communities to cast veiled aspersions against the government of the Whig prime minister Robert Walpole (1676–1745), who, his critics alleged, had risen to power amid the financial scandal of the South Sea Bubble in 1720–1721 by "screening" those responsible from prosecution.¹⁴ Mist made the point by alluding to the concurrence between pirate commonwealths and the original purposes of government, which, Mist explained, was "founded upon Covenant; it was Mens agreeing to be governed according to their particular judgments, and particular Appetites, that first set up Commonwealths; and they consented for the Benefits of Society, that any Man who injured another should suffer such a Penalty." The problem in existing commonwealths was that "those appointed to Preside" grasped more power and by "skreening" themselves from punishment, making "unworthy Promotions," and practicing "Imbezzlement." The pirates, by contrast, "seem to be very jealous of their Liberties," and practice promotion by "Merit." Although "they are Rogues to all the World besides", Mist wrote, "yet they are Men of Honour to one another."

Mist's purported Jacobitism, and his opposition to Prime Minister Walpole's Whig government, might help to explain why pirates and piracy should be selected as the unlikely medium for political critique. The *General History* publicized the seditious actions of pirates who represented an alternate sovereign legal order registered, for example, in the pointedly Jacobitical re-naming of pirate vessels *The Revenge*, the *Royal James*, and

14 Bruce Buchan and Lisa Hill, *An Intellectual History of Political Corruption* (New York: Palgrave, 2014), 132–135.

Queen Ann's Revenge.¹⁵ As others have pointed out, pirates would stop at nothing to legitimize their violence, even claiming to fight on behalf of a deposed king.¹⁶ Yet, what is interesting about this feature of the *General History*, in light of Mist's glowing review of it, is that it highlights a wider ambivalence surrounding the figure of the "pyrate" as *hostis humani generis* in British legal and political thought in the so-called Golden Age of Atlantic piracy.¹⁷ The "pyrates," as presented here, were no doubt volatile and violent, but they were also possessed of a unique kind of virtue. If this deliberately ambivalent portrayal of the "pyrates" was a product of Mist's Jacobitism, it is likely to have originated in his opposition to the English Whigs who ousted King James II from Britain in 1688, and their use of the charge of "piracy" to consolidate a new sovereign on the throne.

John Locke and the Pyrates of Political Thought

In recent years, political theorists have argued that "Golden Age" pirates achieved a kind of social contract.¹⁸ Pirate "Articles" were agreements made by men who inhabited "a genuine state of nature," and were "created to exit the Hobbesian Jungle."¹⁹ A variety of scholars have drawn attention to the self-organization among pirate crews as forms of resistance to sovereignty and the sanctity of property in Britain, Europe, and in their various colonies and empires.²⁰ Some scholars have gone further by identifying pirates as rational actors who contracted for limited political authority within their crews and communities; in effect, exemplifying in their pirate "Articles" the social contract long imagined by political theorists, (most notably John Locke

15 E.T. Fox, "Jacobitism and the 'Gold Age' of Piracy, 1715–1725," *International Journal of Maritime History* 22, no. 2 (2010): 282–293.

16 Mark G. Hanna, "Well-Behaved Pirates Seldom Make History: A Reevaluation of English Piracy in the Golden Age," in *Governing the Sea in the Early Modern Era*, ed. Peter C. Mancall and Carole Shammas (Berkeley, CA: University of California Press, 2015), 129–168.

17 For the corresponding treatment of the pirate in legal thought, see Megan Wachspress, "Pirates, Highwaymen, and the Origins of the Criminal in Seventeenth-Century English Thought," *Yale Journal of Law & the Humanities* 26, no. 2 (2015): 315–316.

18 P. Sheridan, "Pirates, Kings and reasons to Act: Moral Motivation and the Role of Sanctions in Locke's Moral Philosophy," *Canadian Journal of Philosophy* 37, no. 1 (2007): 35–48.

19 P.T. Leeson, "The Calculus of Piratical Consent: The Myth of Social Contract," *Public Choice*, 139 (2009), 443–459; Peter Hayes, "Pirates, Privateers, and the Contract Theories of Hobbes and Locke," *History of Political Thought* 29, no. 3 (2008): 463.

20 J. E. Thomson, *Mercenaries, Pirates, and Sovereigns*, (Princeton, NJ: Princeton University Press, 1994), 45–54.

himself).²¹ This rational model of self-interested piratical decision-making also entailed “progressive racial practices,” such as liberating slaves taken at sea to maximize the “dispersed benefit” obtained by augmenting the crew.²² This rehabilitation of the *hostis humani generis* transforms the pirate into a willing subject of political philosophical order. The pirate is no longer an outcast and a villain, but an active constituent of contractual government. This analysis fails to grasp the historical function of piracy in Western political thought in circumscribing the problem of misgovernment.²³ This was exemplified in the political thought of the man whose writings have come to symbolize British social contract theorizing, John Locke (1632–1704).

As a one-time Secretary to the Council of Trade and Plantations (in the early 1670s) and a member of the Board of Trade and Plantations (1696–1700), John Locke was engaged in the long-running campaign to eradicate pirates from preying upon Britain’s (and its colonies’) sea-going trade.²⁴ It was in the context of this campaign that pirates came to be defined as the *hostis humani generis*, the barbarous enemy whose very existence beyond and in defiance of the law necessitated their elimination.²⁵ It is hardly surprising that Locke would have adopted such a view of pirates who threatened the commerce of the seas, the property and lives of merchants, and the rights of nations to exchange and trade. Yet, Locke’s references to pirates do not indicate that he viewed *them alone* as the major threat. In fact, Locke’s scattered discussions of “pyrates” reveals some interesting prevarications.²⁶

Locke’s interest in piracy pre-dated the “Golden Age.” In his early *Essays on the Laws of Nature*, written while he was still in Oxford in the early 1660s, Locke referred briefly to pirates as an example of the natural diversity of moral opinion anciently prevailing among human communities. This natural moral diversity was the only explanation of why many ancient “nations have

21 Leeson, “The Calculus of Piratical Consent,” 445.

22 *Idem*, “The Invisible Hook: The Law and Economics of Pirate Tolerance,” *New York University Journal of Law & Liberty*, no. 4 (2009): 143, 161.

23 Cicero, *On Duties*, Bk. II, § 40, 78; Bk. III, § 107, 141.

24 On 12 September 1699, for instance, Locke signed a memorandum from the Board on the “Earl of Bellomont’s Letter About Captain Kidd” that recommended an amnesty to all pirates operating off the coast of Britain’s American colonies. The National Archives, Kew, London, CO324/7.

25 Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations*, (New York: Zone Books, 2009), 152–154. M. Neocleous, *The Universal Adversary*, (Abingdon: Routledge, 2016).

26 By contrast, Sarah Pemberton argues that Locke uses pirates as an avatar for unjust and unlawful violence enabling him to extend the domain of natural law and its protection of the rights of property on land, across the seas. S. Pemberton, *Locke’s Political Thought and the Oceans: Pirates, Slaves and Sailors*, (Lanham, MD: Lexington Books, 2017), 42–43.

professedly been pirates and robbers,” a fact self-evidently demonstrating that there was no general consent among humans on the nature of justice, as Grotius had suggested.²⁷ This was an entirely conventional condemnation of piracy as mere robbery by force and fear.²⁸ Here, piracy was a convenient analogue for illegitimate power over another, in contrast to the legitimate power of rulers who are obeyed “for conscience” sake, because a “king has command over us by right.”²⁹ Locke’s purpose in so arguing, as Daniel Carey has so eloquently shown, was to suggest that reason alone (rather than cultural convention) served as the means of discovering the nature of justice and morality.³⁰ In his later *Two Treatises of Government* (1690), Locke’s references to piracy are again fleeting, but significant. Their significance lies in his representation of the pirate as an embodiment of illegitimate power, exercised without sovereign sanction. In levelling the accusation of piracy, however, Locke displayed a hint of ambivalence about the real identity of the *hostis humani generis*.

At the time he wrote and later (anonymously) published his *Two Treatises*, Locke was closely aligned with an influential group of property-owning, Parliamentary powerbrokers led by Locke’s patron, Anthony Ashley Cooper, the 1st Earl of Shaftesbury (1621–1683).³¹ Shaftesbury’s colourful career included serving in the regime that executed King Charles I in 1649, then joining the delegation that invited Charles’s son to become the next Stuart king in 1660, before finally leading an ill-fated effort to oust Charles’s brother and heir, James II, from the throne in 1679–1681. Locke was a close associate of and advisor to Shaftesbury through all of these parliamentary permutations, and the history of the *Two Treatises* (which was most likely written in the years between 1679–1681), was bound to the machinations that led his patron Shaftesbury from power to Dutch exile in 1683.

Locke first invoked the figure of the pirate in his “First Treatise” where he took aim at the notion that monarchical government derived its authority from divine dispensation. Locke argued that it would be impossible to identify the rightful holder of such a dispensation. Worse still, this notion served

27 John Locke, *Essays on the Law of Nature: The Latin Text with a Translation, Introduction, and Notes*, ed. by W. von Leyden (Oxford: Clarendon Press, 1660–1664/1954), 169.

28 This was, for example, how Hobbes referred to pirates. See T. Hobbes, *Leviathan*, ed. by R. Tuck (Cambridge: Cambridge University Press, 1651/1996), Part II, ch. 17, 118.

29 Locke, *Essays on the Law of Nature*, 185, 189.

30 Daniel Carey, “The Problem of Sati: John Locke’s Moral Anthropology and the Foundations of Natural Law,” *Journal of Early Modern History* 18 (2014): 79–80.

31 See for example, P. Laslett, “John Locke, the Great Recoinage, and the Origins of the Board of Trade: 1695–1698,” *William and Mary Quarterly* 14, no. 3 (1957): 377–378.

those rulers who made the spurious claim that their rulership demonstrated their divine authorization. Locke pointedly disdained any idea that the possession of power alone entitled the possessor to be regarded as a rightful ruler. If this were the case, then “there would be no distinction between Pirates and Lawful Princes [...] and Crowns and Sceptres would become the Inheritance only of Violence and Rapine.”³² Here, Locke invoked the image, already well-established in European political thought, of the pirate as the incarnation of coercive, violent power without any title or justification. The pirate was the direct opposite of the legitimate ruler who upheld the laws, defended property, and served justice on malefactors.³³ By arguing so, Locke steered a familiar course within the channel markers of European political thought, but his course soon took him into less familiar waters.

Previous political thinkers, from Cicero to St. Augustine of Hippo and on to Thomas Hobbes, had noted the more than passing resemblance between pirates and sovereigns, and worried that the moral or spiritual grounds that normatively distinguished the sovereign’s powers from the pirate’s plundering might just be illusory, or at least historically contingent.³⁴ Locke, however, had no truck with these concerns, as he made clear in the “Second Treatise.” He summarily dismissed the idea that war or conquest, violence or aggression, even that sanctified by the passage of time, could ever be the foundation for the rightful exercise of power. Otherwise, he maintained, “Robbers and Pyrates have a Right of Empire over whomsoever they have Force enough to master [...].”³⁵ Rightful power over the lives and liberties of subjects, Locke argued, can only rest on “*the Consent of the People*.” This alone established a means of arbitrating or umpiring disputes that did not depend on the extortion of obedience.³⁶

Locke complicated this apparently conventional logic in another reference to pirates, this time in the context of defending his own argument for a limited right to rebellion. For Locke, government by consent was revocable only when the enormities committed by a tyrannous government became so great that it placed itself into a state of war with its own people, who may

32 Locke, *Two Treatises*, I, § 81, 203.

33 Andrew Dilts, “To Kill a Thief: Punishment, Proportionality, and Criminal Subjectivity in Locke’s Second Treatise,” *Political Theory* 40, no. 1 (2012): 58–83.

34 St Augustine, *The City of God Against the Pagans*, ed. by R.W. Dyson, (Cambridge: Cambridge University Press, 413–426/1998), 145–146; Thomas Hobbes, *On the Citizen*, ed. by R. Tuck and M. Silverthorne, (Cambridge: Cambridge University Press, 1642/1998), 149–50; and Hobbes, *Leviathan*, 118. Hayes, “Pirates, Privateers and the Contract Theories of Hobbes and Locke,” 461–484.

35 Locke, *Two Treatises*, II, § 176, 385.

36 *Ibid.*, § 175, 384.

then legitimately rebel and replace their government.³⁷ Far from sounding a clarion call for revolution, however, Locke was at pains to argue that this was a conditional right to rebel that could be invoked only when the government had actually become tyrannous. To deny such a right, Locke argued, would be to argue that “honest” subjects “may not oppose Robbers or Pirates.”³⁸ Locke’s final, if tangential reference to piracy in the *Two Treatises* elaborated this point in reference to the time worn “ship of state” metaphor. In Locke’s hands, however, the metaphor was given an unusual twist by likening the subject of a state drifting towards tyranny to a passenger aboard a “Ship [...] carrying him, and the rest of the Company to *Algiers*.”³⁹ The significance of this reference could not have been lost on contemporaries, for whom the port city of Algiers on the North African coast was a well-known resort of Barbary corsairs.⁴⁰ These raiders, both African Muslims and Europeans, operated from the north coast of Africa, attacking European shipping and coastal communities.⁴¹ Of most importance in contextualizing Locke’s reference was that chief among the corsairs’ objectives was to take captives for sale into slavery to work on galleys or as domestic servants, estimated to have numbered in the thousands from Britain alone in the early decades of the seventeenth century.⁴² Hence the significance of Locke’s analogy. Passively watching the drift of a state towards tyranny was akin to the position of captives knowing that their ship was destined for Algiers, and they for slavery. Both captive and subject were bound for intolerable slavery at the hands of a power no more legitimate than that of a mere pirate. Moreover, and this was the burden of Locke’s metaphor, neither captive, nor subject should be deceived that the temporary setbacks or illusory concessions made along the path to tyranny had any greater bearing on the final destination than the crosswinds that occasionally beset the corsair’s galley.

With this simple metaphor Locke quite unexpectedly reversed the logic of his previous references to piracy. In those earlier references, pirates served as a negative example of the chaotic violence and force to which individuals lay exposed in the absence of political authority in the “state of nature.” In the new formulation, by contrast, Locke’s logic placed the pirate

37 *Ibid.*, § 196–208, 396–404.

38 *Ibid.*, § 228, 417.

39 *Ibid.*, § 210, 405 (italics in original).

40 C. Lloyd, *English Corsairs on the Barbary Coast* (London: Collins, 1981), 94.

41 A. Talbot, *The Great Ocean of Knowledge: The Influence of Travel Literature on the Work of John Locke*, (Leiden: Brill, 2010), 305. See also, Lloyd, *English Corsairs*, 65–66.

42 Linda Colley, *Captives: Britain, Empire, and the World, 1600–1850*, (New York: Anchor, 2002), 50.

on a par with rulers who, by their tyrannous “usurpations” had become no better than pirates themselves and thus deserved to be considered the “common Enemy and Pest of Mankind.”⁴³ By using this significant phrase, Locke equated tyrants and pirates and echoed a much older, classical Roman understanding, according to which both a tyrant and pirate could be described as a common enemy, worthy of extermination.⁴⁴ In Locke’s formulation, however, it seems that tyrants constituted the main threat and were thus the genuine “common enemy and pest” of humankind. In this way, pirates and piracy were employed in the text as an analogy for the “danger” to the “Laws [...] Estates, Liberties and Lives” of subjects caused, not so much by maritime crime, as by terrestrial tyranny.⁴⁵

Locke’s Pyrates

At this point, it is worth asking what Locke might have known of the pirates who populated his text. Although his earliest references to piracy in the 1660s indicated no particular knowledge, by the time he came to write and then continue to revise his *Two Treatises*, Locke had ample access to a variety of sources on piracy – both printed and personal.⁴⁶ Locke amassed a considerable personal library, among which his collection of ethnographic writings produced from Europe’s expanding global and imperial connections has been estimated as one of the finest.⁴⁷ This ethnographic interest provided one possible avenue through which Locke may have been exposed to first-hand accounts of the politics of piratical communities in the Caribbean as he published and then revised his *Two Treatises* throughout the 1690s. Although published in 1689–1690 (some ten years after it was originally written), Locke was unhappy with this first edition, and so he continued to refine the work. Further editions appeared in 1694 and 1698, and he left instructions with his executors for a further edition after his

43 Locke, *Two Treatises*, II, § 230, 418.

44 H.D. Gould, “Cicero’s Ghost: Rethinking the Social Construction of Piracy,” in *Maritime Piracy and the Construction of Global Governance*, ed. by M.J. Struett, J.D. Carlson, and M.T. Nance, (London: Routledge, 2012), 25.

45 Locke, *Two Treatises*, II, § 209, 404–405.

46 On the publication history, see Laslett, “Introduction” to Locke, *Two Treatises*, 8–9.

47 Locke possessed “195 titles which can be called *Voyages and Travel*,” and among his whole personal library those dealing with “travel, exploration, and geography [...] [and] comparative anthropology” contained the most evident signs that he had closely read them and marked pages for remembering. J. Harrison and P. Laslett, *The Library of John Locke*, 2nd edn., (Oxford: Oxford University Press, 1971), 27.

death in 1704. Throughout these years, Locke was closely involved with the Board of Trade and its efforts to protect Britain's maritime trade from piracy.⁴⁸ In the context of the Board's oversight not only of maritime trade, but also of colonial governance and inter-imperial rivalry, Locke had the opportunity to meet the sometime pirates and privateers, William Dampier (1651–1715) and Lionel Wafer (1640–1705).⁴⁹ Both claimed to have served in privateer crews under Letters of Marque from their sovereign to raid the shipping of his Spanish and French enemies. But both also joined one of the various parties of buccaneers, who raided Spanish shipping and communities on their own piratical account on the Pacific and Caribbean coast of the Isthmus of Panama. Locke owned copies of both Dampier's *New Voyage Round the World* (1697) and Wafer's *New Voyage and Description of the Isthmus of America* (1699), which spoke of some of their piratical experiences.⁵⁰ More importantly, Locke also owned copies of the 1695 and 1699 editions of Alexandre Exquemelin's *The Buccaneers of America* (originally published in Dutch in 1678), the latter of which contained the published journal of another English buccaneer and companion of Dampier and Wafer, Basil Ringrose. Although it was subsequently overshadowed by Captain Charles Johnson's *General History of the Pyrates* published in 1724, Exquemelin's book was written from first-hand experience in buccaneer crews and was the most detailed account of pirate political organization available in Locke's lifetime.

According to Exquemelin, the buccaneers made decisions about the direction of their voyages and raids in "Council," wherein "they agree upon certain Articles which are put in writing, by way of Bond or Obligation, the which every one is bound to observe."⁵¹ The Captain and other office bearers of their pirate vessels were also elected by common vote, and their dismissal could just as easily be accomplished by the same means. William Dampier, for example, noted that captains were seconded by a Quartermaster who

48 Locke's professional engagement in the Board's anti-piracy efforts is described in, Pemberton, *Locke's Political Thought and the Oceans*, 47–71.

49 A Board memorandum of 6 July 1697 records the copying of Dampier's and Wafer's accounts of "the Isthmus of Darien," where the Scottish East India Company was intending to form a settlement. TNA, CO324/7. Also, D. Preston and M. Preston, *A Pirate of Exquisite Mind: The Life of William Dampier, Explorer, Naturalist and Buccaneer*, (London: Doubleday, 2004), 245, 248.

50 Harrison and Laslett, *The Library of John Locke*, see numbers 511 and 512, 910, 2485, and 3121.

51 All quotes from Exquemelin will be made from the second (1695) English edition as follows: John Esquemeling [Alexandre Exquemelin], *The History of the Bucaniers of America; Or, a True Account of the Most Remarkable Assaults, Committed (of Late Years) upon the Coasts of The West Indies, by the Bucaniers of Jamaica and Tortuga*, second edition (London: William Whitwood, 1695), Part I, 42.

held “the second Place in the Ship according to the Law of Privateers.”⁵² All booty taken on their raids was passed into the “the common stock” and divided by equitable shares, which also included compensation for the sick and injured.⁵³ Any pirate who looted for themselves and did not abide by their agreement to contribute what they took to the joint stock was expelled, or worse. Exquemelin was clear that by these means the buccaneers maintained “very good orders” and a “civil and charitable” ethos among themselves, even though they exercised a fearsome and pitiless violence against their victims.⁵⁴

If Locke consulted Exquemelin at all while revising the *Two Treatises*, it is hard to imagine that he took much else from it than the sensational stories of cruel atrocities, ambushes, tortures, lootings, and sackings committed by the French buccaneer captain François l’Olonnais (c. 1630–c. 1669).⁵⁵ One of the features of piracy that Locke emphasized was that pirates were those with whom no faith could be kept. Pirates not only placed themselves beyond the reach of laws, but also defied those very laws by claiming a right to act on their own account. Therefore, they could not be trusted to keep their bargains.

No feature of piracy could be more redolent of this defiance of moral and legal authority than the practice of piratical oath-making and oath-taking.⁵⁶ In Early Modern European political and legal discourse, oaths had a double meaning. Oaths were made not only in abusive “swearing,” but in the formal solemnities of “swearing in.” In this latter sense, oaths were pledges or promises of trust, truthfulness, and fidelity made under the divine authority of God, or the secular authority of law.⁵⁷ Oath-taking, on assuming public office or in giving legal testimony, was therefore a testament of veracity, validated by divine and political hierarchy. These oaths were verbal symbols of the ideal of liberty Locke recommended – a liberty underwritten by divine, legal, and political sanctions. This was precisely the sense in which Locke spoke of oaths of allegiance and obligation marking the transition of subjects from child to “free” adult:

52 William Dampier, *A New Voyage Round the World*, (London: Hummingbird Press, 1697/1998), 41.

53 Exquemelin, *Bucaniers*, Part I, 42.

54 *Ibid.*, Part I, 43.

55 *Ibid.*, Part II, 1–25.

56 Bruce Buchan, “Pirate Oaths, Mutinous Murmurings, and British Counter-civilities at Sea in the Eighteenth Century,” *Cultural History*, 9, no. 1, (2020): 1–25.

57 Conal Condren, *Argument and Authority in Early Modern England: The Presupposition of Oaths and Offices* (Cambridge: Cambridge University Press, 2006).

Common-wealths [...] allow that there is *a time when Men* are to *begin to act like Free Men*, and therefore till that time require not Oaths of Fealty, or Allegiance, or other publick owning of, or Submission to the Government of their Countreys.⁵⁸

Pirate oaths can be understood as deliberately subversive, marking their discourse as both uncivil and illegal under existing British statutes (which imposed fines for public swearing), freely made in defiance of authority. Pirate oaths were the most “uncivil” of vocal expressions because they were not made to affirm a hierarchy of moral, spiritual, or political authority. Rather, they affirmed the radical autonomy of the individual from those hierarchies. Pirate oaths, like those of the cruel and “sacrilegious” l’Olonnais, affirmed individual judgement as the sole criterion, disdaining God’s authority. When that “cruel Tyrant” l’Olonnais thought he had been led astray in the jungle by his Spanish captives, he swore “with great choler and indignation: ‘By Gods Death, the Spaniards shall pay me for this.’”⁵⁹ If Locke ever saw such instances as evidence for his own view of piracy, he overlooked Exquemelin’s counter-examples. Even the pitiless l’Olonnais was said to have given his word to the request of some Spanish inhabitants of a besieged town to be given two hours to evacuate.⁶⁰ The two hours being given and scrupulously obeyed for the duration, the poor Spaniards were nonetheless looted upon the expiry of time. More significant perhaps, is the emphatic evidence that oaths among the pirates themselves were considered as binding on the individual pirate as any sacred promise. Exquemelin described the buccaneers of the Caribbean adopting the practice of making a “solemn Oath” that all their pillaged goods were surrendered for redistribution according to the system of shares, and should any of them be found to have “contraven’d the said Oath, immediately he is separated and turned out of the society.”⁶¹ Here is unequivocal evidence of the egalitarianism and consent of pirate political order. Pirate order did not only consist in pure rebellion, or in sacrilegious oath-making, or extortionate robbery, but in the reconstitution of an egalitarian social and political structure based on a form of consent much more radical than Locke could abide.

58 Locke, *Two Treatises*, II, § 62, 309 (italics in original).

59 Exquemelin, *Bucaniers*, Part II, 20.

60 *Ibid.*, Part II, 21.

61 *Ibid.*, Part I, 43.

Of Pyrates and Sovereigns

When Locke wrote of government by consent his thought was not animated by *democratic* aspirations so much as by the overriding concern to *limit them*, by balancing a right to rebellion against tyranny with the need for security of property. This concern took shape in the campaign of England's Whiggish elite, for whom Locke worked, to secure a Protestant and pliable successor to the throne to follow the Catholic James II. The *Two Treatises* were originally conceived and composed, but never published, in the context of the "Exclusion Crisis" of 1679–1681. At that time, Locke's patron, the Earl of Shaftesbury, led an unsuccessful Parliamentary and propaganda campaign to have a Bill passed to have King Charles II's Catholic brother and heir, James, excluded from succession to the throne. Although Locke selectively and circumspectly circulated his manuscript at this time, he did not publish it. Over succeeding years, he continued to refine the manuscript and eventually published it anonymously in the wake of the "Glorious Revolution" of 1688–1690 that had succeeded in deposing the then king, James II, and replacing him with his Protestant daughter Mary and her husband William, Prince of Orange. The publication of Locke's text in 1689–1690 apparently provided a justification for this rebellion and deposition, even though it originated in an earlier crisis.⁶² The text trod a fine line between revolution and security, as Locke himself acknowledged in attempting to construe the right to rebellion as a limited and last resort. The Whiggish elite had learned the lesson from Britain's earlier Civil War and Commonwealth government (1642–1660) that the common people desired and would fight for their own liberty and democratic rights that they conceived to be more expansive than the property-owning elite were willing to allow. For this elite, there was much to lose in opening the door to more radical claims. The Glorious Revolution was their attempt to secure the state that would secure them and their property, and by so doing protect and project Britain's colonial and maritime commerce.

It is therefore significant that at the very time Locke was working on the second edition of the *Two Treatises*, piracy presented one of the first serious legal challenges to the new regime he and his patron had worked to establish. King James II's ill-fated attempt to win his throne back by force of arms in Ireland ended in 1691 with a capitulation to the victors that allowed him to withdraw his troops and supplies to France. By the Treaty of Limerick, he and his army were accorded the honour of defeated

62 Laslett, "Introduction" to Locke, *Two Treatises*, 45–7.

enemies at war and, for those captured, rights as prisoners of war. As he and his forces prepared to withdraw, however, James determined to strike back by issuing commissions, or Letters of Marque, to some of his Irish officers to act as privateers against British shipping. Among James's motivations for doing so was clearly a desire to continue the war by a profitable means that also demonstrated his claim to sovereign status through issuing commissions.⁶³ For the new government at Westminster, this claim had to be denied outright, for a new and invited sovereign now sat upon the throne that James had been forced to vacate.

As John Bromley has demonstrated, the capture and trial of a handful of these captains in 1692–1693 took place in a hostile atmosphere fed by fevered computations that their raids cost British trade as much as £3 million.⁶⁴ In November 1692, the Lords of the Privy Council and the Lords of the Admiralty convened to try captains John Golding, Thomas Jones, John Ryan, Darby Collins, Richard Shivers, Patrick Quidley, John Slaughter, and Constantine de Hartley as pirates. The Advocate of the Fleet, Dr William Oldys (or Oldish) was briefed to prosecute the captains as pirates, which he refused on the grounds that these defendants were not the “common enemies to all mankind” but “privateers” acting under the “colourable authority remaining in King James.”⁶⁵ At issue between Oldys and the Lords was not the practice of privateering itself, but the question of a “colourable authority remaining in King James” to issue such warrants following his deposition from the British throne in 1688. Oldys's contention was supported by Sir Thomas Pinfold, who addressed the Lords on the identity of defendants as “pirates.” As Pinfold saw it, “a Pirate was *hostis humani generis*,” meaning that any person so described must be a literal enemy to all humankind. Pinfold claimed that the defendants “were not Enemies to all Mankind” but simple sailors prosecuting war by means of entirely legitimate privateering (duly warranted by a sovereign monarch), “therefore they can not be Pirates.”⁶⁶ Such a literal defence elicited smiles from the justices, one of whom was

63 John Bromley, *Corsairs and Navies 1660–1760*, (London: Hambledon Press, 1987), 155.

64 *Ibid.*, 159–160.

65 *A Complete Collection of State Trials and Proceedings for High Treason and other Misdemeanours from the Earliest Period to the Present Time*, Vol. 12, A.D. 1687–1696, (London: T.C. Hansard, 1812), 1269–1270.

66 Matthew Tindal, *An Essay Concerning the Laws of Nations and the Rights of Sovereigns, with an account of what was said at the Council-Board by the Civilians upon the Question, Whether their Majesty's Subjects Taken at Sea acting by the Late King's Commission, Might not be Looked on as Pirates....*, (London: Richard Baldwin, 1694), 27.

said to have replied: "Whether there ever was any such thing as a Pirate, if none could be a Pirate but he that was actually in War with all Mankind."⁶⁷

The argument was taken sufficiently seriously by the Lords of the Admiralty that Oldys was summarily dismissed and replaced by the Deputy Judge Advocate, Matthew Tindal. He had no scruples about trying the men as pirates. His prosecutorial arguments in 1692 resulted in the conviction of the officers as pirates, some of whom were hung, and their bodies displayed in gibbets between low and high tide marks on the Thames as a warning to others. In 1694, Tindal amplified his arguments in a publication that was to become an influential work on piracy in international law: *An Essay Concerning the Laws of Nations and the Rights of Sovereigns*. Tindal argued that James had no claim to be regarded as a sovereign, having abdicated his throne and its prerogatives, and thus he could not issue valid privateering commissions.⁶⁸ The ubiquitous Latin tag used to name the figure of the pirate in law, *hostis humani generis*, was, Tindal wrote, "[...] neither a Definition" or a "Description [...]" but a Rhetorical Invective to shew the Odiousness of that Crime."⁶⁹

What kind of a crime was it? For Tindal, the crime of piracy imbibed two orders of wrongdoing. First, for a subject who "receives Protection from a Government, and has sworn to be true to it, yet acts against it," piracy is a treasonous betrayal.⁷⁰ Second, in repudiating allegiance and obligation to one government, the pirate subverts all governments by holding in contempt the "Ties and Bonds that unite People in Civil Society under any Government." Hence, the pirate is an "Enemy to all Governments." As Tindal saw it, the "Certainties" on which the law of nations was founded mandated freedom of the seas and security of commerce, requiring the assertion of sovereignty over and above the spurious claims made by an "unkinged" monarch who had now "dwindled" to become not just a private person, but a mere "pirate" who no longer possessed the sovereign right to declare war and peace.⁷¹ In this formulation, Tindal appeared to echo Locke's association of the figures of the tyrant and the pirate. What lay at issue, as Tindal made clear, was not simply the prosecution of a handful of *hostes humani generis*, but the de-legitimation of a one-time sovereign who now represented to the new

67 *Ibid.*, 27.

68 *Ibid.*, 18–20.

69 *Ibid.*, 27–28.

70 This and following quotation from, *Ibid.*, 28.

71 *Ibid.*, 16, 19.

English government a threat so memorably defined in Locke's resonant phrase: "the common Enemy and Pest of Mankind."⁷²

Conclusion

For some time, John Locke was identified as the author of an extended introductory essay on the history of navigation for the *Collection of Voyages and Travels* (1704) produced by his publisher, Awnsham Churchill. The introductory essay positioned the commercial and intellectual benefits of "the empire of Europe [...] now extended to the utmost bounds of the earth where several of its nations have conquests and colonies," within a much longer history of contest for the "sovereignty of the seas."⁷³ The essay seemed to echo the argument in Locke's *Two Treatises* that the extension of Britain's imperial sovereignty in America was a token of progress away from the insecurity of the state of nature, for which the savagery of "pyrates" on the high seas served as an analogue. The pyrate in particular was construed not simply by Locke, but also by his contemporary Tindal, as an agent of the endemic insecurity of the state of nature, a figure who exercised violence solely on his or her own account without any legitimate state sanction. The longevity of this construction of the pirate has enabled the anachronistic elision by which piratical sailors of the late seventeenth and early eighteenth centuries are construed as "essentially terrorists."⁷⁴

Andrew Dilts has recently argued that the question of the appropriate punishment for those who transgress, renounce, or live beyond divine, moral, and human law has shaped the Western "canon of political theory."⁷⁵ The figure of the pirate, like that of the "savage," is a "source of physical and ontological threat" to the law-abiding inhabitants of civil society. The pirate is one of those "liminal figures that haunt the boundaries of membership [of civil society] and the border between the law of reason and the law of

72 Locke and Tindal were acquainted, and Locke had copies of all Tindal's published works in his own library, leading to the supposition that Locke "approved" of Tindal's arguments. S. Lalor, *Matthew Tindal, Freethinker: An Eighteenth-Century Assault on Religion* (London: Continuum, 2006), 29.

73 "An Introductory Discourse, Containing the Whole History of Navigation from its Original to this Time," in, *A Collection of Voyages and Travels: Some Now First Printed from Original Manuscripts... in Four Volumes*, (London: Awnsham and John Churchill, 1704), Vol. I, lxxiii, and xii–xiii.

74 O. H. K. Spate, *The Pacific Since Magellan, Volume II: Monopolists and Freebooters* (London: Croom Helm, 1983), 135. Also, Neocleous, *The Universal Adversary*.

75 Dilts, "To Kill a Thief," 60, and following quote from p. 61.

beasts.” Seen in this light, the rhetorical purpose of Locke’s references to piracy in the *Two Treatises* might be said to serve as negative examples against which to define “the obedient subject [of civil society] as rational, innocent, and, above all, free.”⁷⁶

I have argued in this chapter for a slightly different view. In effect, Locke’s (and Tindal’s) “pyrates” served a more ambivalent purpose, to position not only the maritime marauder, but also the terrestrial tyrant (James II) as the common pest of humankind. Piracy, for them, was not simply a matter of legal definition, but of moral and political argument about the basis of political order and the legitimacy of sovereignty. In this construction, the tyrant and the pirate symbolized the inevitable insecurity that lay beyond the bounds of civil society, in which legal restrictions on the use of violence gained no purchase. The insecurity they embodied was twofold; each was to blame for the insecurity born of their own violence, but each was also subject to the constant fear of becoming victims to the unrestrained violence of another in the state of nature. It was this same doubled insecurity that Captain Johnson imagined in the opening biography of his *General History*: the “Life of Captain Avery.”⁷⁷ As depicted here, Avery’s crew found themselves cut adrift on the cruel seas of the state of nature where their only security lay in their own power of self-defence, constantly excited by mutual jealousy and suspicion among themselves. Johnson’s tale of Avery’s crew was far-removed from the picaresque fantasy of the “successful pirate,” and was, in fact, a ready-made rebuttal of the contractual argument for government by consent that had been mobilized by Locke and others to legitimate the (still relatively) new Whiggish political order established in 1688. In Johnson’s *General History*, Avery’s crews’ fate illustrated why the contractual and consensual order of pirate articles led straight to the nightmare of ravenous insecurity, perpetual vigilance, and ineradicable violence. It is telling that Johnson could find no better comparison to describe their situation than to consider them all as petty “tyrants,” for each of whom:

the fear of their [individual] power could not secure them against a surprise [...] if power and command be the thing which distinguish a prince, these ruffians had all the marks of royalty about them, nay more, they had the very fears which commonly disturb tyrants.

⁷⁶ *Ibid.*, 72.

⁷⁷ All following taken from: Johnson, *General History*, 59–61.

These pirates' unmitigated fear was the surest illustration of the very same identity that Locke had taken such pains to establish, between the pirate and the tyrant. "Thus tyrant like they live [...]," Johnson wrote of Avery's pirates, fugitives "fearing and feared by all."

Bibliography

- "An Abstract of the Civil Law and Statute Law now in Force, in Relation to Piracy," in Charles Johnson, *A General History of the Pyrates from their first Rise and Settlement in the Island of Providence, to the Present Time*, 2nd edn. (London: T. Warner, 1724).
- "An Introductory Discourse, Containing the Whole History of Navigation from Its Original to this Time," in *A Collection of Voyages and Travels: Some Now First Printed from Original Manuscripts... in Four Volumes* (London: Printed for Awnsham and John Churchill, 1704).
- A Collection of Miscellany Letters, selected out of Mist's Weekly Journal*, fourth volume (London: printed for T. Warner, MDCCXXVII).
- A Complete Collection of State Trials and Proceedings for High Treason and other Misdemeanors from the Earliest Period to the Present Time*, Vol. XII A.D. 1687–1696 (London: printed by T.C. Hansard, 1812).
- Augustine, *The City of God Against the Pagans* (413–426CE), ed. by R.W. Dyson (Cambridge: Cambridge University Press, 1998).
- Bialuschewski, A., "Daniel Defoe, Nathaniel Mist, and the 'General History of the Pyrates'," *Proceedings of the Bibliographical Society of America* 98, no. 1 (2004), 21–38.
- Bromley, J., *Corsairs and Navies 1660–1760* (London: The Hambledon Press, 1987).
- Buchan, B., "Pirate Oaths, Mutinous Murmurings, and British Counter-Civilities at Sea in the Eighteenth Century," *Cultural History* 9, no. 1 (2020): 1–25.
- Buchan, B. and L. Hill, *An Intellectual History of Political Corruption* (New York: Palgrave, 2014).
- Burgess, D. R., "Piracy in the Public Sphere: The Henry Every Trials and the Battle for Meaning in Seventeenth-Century Print Culture," *Journal of British Studies* 48 (2009): 887–913.
- Burwick, F., and Powell, M. N., *British Pirates in Print and Performance*, (New York: Palgrave, 2015).
- Carey, D., "The Problem of Sati: John Locke's Moral Anthropology and the Foundations of Natural Law," *Journal of Early Modern History* 18 (2014): 69–100.
- Cicero, *On Duties* (44BCE), ed. by M.T. Griffin and E. M. Atkins, (Cambridge: Cambridge University Press, 1991).

- Colley, L., *Captives: Britain, Empire, and the World, 1600–1850* (New York: Anchor, 2002).
- Condren, C., *Argument and Authority in Early Modern England: The Presupposition of Oaths and Offices* (Cambridge: Cambridge University Press, 2006).
- Dampier, W., *A New Voyage Round the World* (London: Hummingbird Press, 1697/1998).
- Dils, A., “To Kill a Thief: Punishment, Proportionality, and Criminal Subjectivity in Locke’s Second Treatise,” *Political Theory* 40, no. 1 (2012): 58–83.
- Esquemeling, J. [Alexandre Exquemelin], *The History of the Bucaniers of America; Or, a True Account of the Most Remarkable Assaults, Committed (of Late Years) upon the Coasts of The West Indies, by the Bucaniers of Jamaica and Tortuga*, second edition, (London: Printed for William Whitwood, 1695).
- Fox, E.T., “Jacobitism and the ‘Gold Age’ of Piracy, 1715–1725,” *International Journal of Maritime History* 22, no. 2 (2010): 277–303.
- Galvin, A.M., “Caribbean Piracies/Social Mobilities: Some Commonalities Between Colonial Privateers and Entrepreneurial ‘Profiteers’ in the 21st Century,” *Anthropological Quarterly* 85, no. 3 (2012): 755–784.
- Gould, H.D., “Cicero’s Ghost: Rethinking the Social Construction of Piracy,” in *Maritime Piracy and the Construction of Global Governance*, ed. by M. J. Struett, J.D. Carlson, and M.T. Nance (London: Routledge, 2012), 23–46.
- Hanna, M.G., “Well-Behaved Pirates Seldom Make History: A Reevaluation of English Piracy in the Golden Age,” in Peter C. Mancall and Carole Shammas (eds), *Governing the Sea in the Early Modern Era* (Berkeley, CA: University of California Press, 2015), 129–168.
- Harrison, J. and Laslett, P., *The Library of John Locke*, 2nd edn. (Oxford: Oxford University Press, 1971).
- Hartnett, A., and Dawdy, S.L., “The Archaeology of Illegal and Illicit Economies,” *The Annual Review of Anthropology*, 42 (2013): 37–51.
- Hayes, P., “Pirates, Privateers and the Contract Theories of Hobbes and Locke,” *History of Political Thought* 29, no. 3 (2008): 461–484.
- Heller-Roazen, D., *The Enemy of All: Piracy and the Law of Nations* (New York: Zone Books, 2009).
- Hobbes, T., *Leviathan*, ed. By R. Tuck (Cambridge: Cambridge University Press, 1651/1996).
- Hobbes, T., *On the Citizen*, ed. by R. Tuck and M. Silverthorne (Cambridge: Cambridge University Press, 1642/1998).
- Johnson, C., *The Successful Pyrate. A Play*, 2nd edn. (London: Bernard Lintott, 1713).
- Johnson, C., *A General History of the Pyrates from their first Rise and Settlement in the Island of Providence, to the Present Time*, 2nd edn. (London: T. Warner, 1724).

- Lalor, S., *Matthew Tindal, Freethinker: An Eighteenth-Century Assault on Religion* (London: Continuum, 2006).
- Laslett, P., "John Locke, the Great Recoinage, and the Origins of the Board of Trade: 1695–1698," *The William and Mary Quarterly* 14, no. 3 (1957): 370–402.
- Leeson, P.T., "The Calculus of Piratical Consent: the Myth of Social Contract," *Public Choice*, no. 139 (2009): 443–459.
- Leeson, P.T., "The Invisible Hook: The Law and Economics of Pirate Tolerance," *New York University Journal of Law & Liberty* 4 (2009): 139–171.
- Linebaugh, P., and Rediker, M., *The Many Headed Hydra. Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston, MA: Beacon Press, 2000).
- Lloyd, C., *English Corsairs on the Barbary Coast* (London: Collins, 1981).
- Locke, J., *Essays on the Law of Nature*; the Latin Text with a Translation, Introduction and Notes [1660–64], ed. by W. von Leyden (Oxford: Clarendon Press, 1954).
- Neocleous, M., *The Universal Adversary* (Abingdon: Routledge, 2016).
- Pemberton, S., *Locke's Political Thought and the Oceans: Pirates, Slaves and Sailors* (Lanham, MD: Lexington Books, 2017).
- Policante, A., *The Pirate Myth: Genealogies of an Imperial Concept* (Abingdon: Routledge, 2015).
- Preston, D. and Preston, M., *A Pirate of Exquisite Mind: The Life of William Dampier, Explorer, Naturalist and Buccaneer* (London: Doubleday, 2004).
- Rediker, M., *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates and Anglo-American Naval World, 1700–1750* (Cambridge: Cambridge University Press, 1987).
- Schmitt, C., "The Concept of Piracy (1937)," *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 2, no. 1 (2011): 27–29.
- Sheridan, P., "Pirates, Kings and Reasons to Act: Moral Motivation and the Role of Sanctions in Locke's Moral Philosophy," *Canadian Journal of Philosophy* 37, no. 1 (2007): 35–48.
- Spate, O.H.K., *The Pacific Since Magellan, Volume II: Monopolists and Freebooters* (London: Croom Helm, 1983).
- Talbot, A., *The Great Ocean of Knowledge: The Influence of Travel Literature on the Work of John Locke* (Leiden: Brill, 2010).
- Thomson, J. E., *Mercenaries, Pirates, and Sovereigns* (Princeton, NJ: Princeton University Press, 1994).
- Tindal, M., *An Essay Concerning the Laws of Nations and the Rights of Sovereigns, with an account of what was said at the Council-Board by the Civilians upon the Question, Whether their Majesty's Subjects Taken at Sea acting by the Late King's Commission, Might not be Looked on as Pirates...* (London: Printed for Richard Baldwin, 1694).

Wachspress, M., "Pirates, Highwaymen, and the Origins of the Criminal in Seventeenth-Century English Thought," *Yale Journal of Law & the Humanities* 26, no. 2, (2015), <https://digitalcommons.law.yale.edu/yjlh/vol26/iss2/4/> (last accessed: 15 April 2017).

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