

Pirational* Choice: The Economics of Infamous Pirate Practices

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Abstract

This paper investigates the profit-maximizing strategies of violent criminal organization by examining the economics of infamous pirate practices. I explore three practices pirates used to reduce the costs and enhance the revenues of their criminal enterprise. First, I examine the pirate flag, the “Jolly Roger,” which pirates used to signal their identity as unconstrained outlaws, enabling them to take prizes without costly conflict. Second, I consider how pirates combined heinous torture, public displays of “madness,” and published advertisement of their fiendishness to establish a fearsome reputation and piratical brand name that prevented costly captive behaviors. Third, I analyze how pirates used artificial impressment to mitigate the increased risk of pirating in the 18th century as a result of English legal innovations. The unique context in which pirates sought profits, not a difference in pirate rationality, explains pirates’ eccentric and often bizarre behavior. Pirates’ infamous practices improved their efficiency “on the account,” enhancing their criminal enterprise’s profitability.

*I thank Tyler Cowen, Chris Coyne, Edward Glaeser, Andrei Shleifer, Russ Sobel, Bill Trumbull, and Claudia Williamson for helpful comments and suggestions on an earlier draft of this paper.

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1 Introduction

Few characters in history inspire as much fascination or mystery as pirates. Pirate symbols, from skull-emblazed flags, to eye patches and wooden legs, pervade modern popular culture. Despite this, or perhaps because of it, in many people's minds pirate fantasy and reality are indistinguishable. Buried treasure, colorful captains, and salty sea talk are permanently part of pirates' intriguing lore. Many infamous pirate practices are pure fiction. However, a number of others not only have historical foundations; they have rational choice foundations as well.

Pirates were organized criminals. Like all criminal organizations, theirs, too, was created and existed for the purpose of profit (Leeson 2007). Becker (1968) was the first to apply the logic of rational-choice decision making to criminals. Following him, a number of others extended this logic to decision making in the context of organized outlaws. Fiorentini and Peltzman (1995) provide the most comprehensive collection of essays that consider the economics of criminal organization. In addition, a large literature discusses the economic impact of organized crime, activities of criminal organizations, optimal strategies for preventing organized crime, and reasons for its emergence and success in some territories but not others (besides Fiorentini and Peltzman 1995, see for instance, Anderson 1979; Arlacchi 1986; Chang, Lu, and Chen 2005; Dick 1995; Garoupa 2000; Jankowski 1991; Jennings 1984; Konrad and Skaperdas 1998; Reuter 1983, 1987; Skaperdas 2001; Varese 2001, 2006).

Unlike these topics, the profit-maximizing strategies of violent criminal organizations have received comparatively little attention. The difficulty of 'getting inside' criminal organizations is largely responsible for this. Levitt and Venkatesh's (2000a, 2000b) important work on street gangs is an exception to this rule, as are Gambetta (1993) and Reuter's (1983) superb studies of the Mafia. However, Levitt and Venkatesh focus on the financial organization of gangs rather than their methods of profit maximization. Gambetta and Reuter's studies, on the other hand, are primarily concerned with the Mafia's provision of protection to outsiders and the organization of the illegal markets it serves. Similarly, important work by Smith and Varese (2001) analyzes the Mafia's strategy for extorting entrepreneurs operating fixed establishments. However, this research is focused on protection rackets.

This paper investigates the profit-maximizing strategies of criminal organizations by examining the cost-reducing and revenue-enhancing strategies of pirates. I explore three practices pirates used for this purpose. First, I examine the pirate flag, the "Jolly Roger," which pirates used to signal their

identity as unconstrained outlaws, enabling them to take prizes without costly conflict. Second, I consider how pirates combined heinous torture, public displays of “madness,” and published advertisement of their fiendishness to establish a fearsome reputation and piratical brand name that prevented costly captive behaviors. Third, I analyze how pirates used artificial impressment to mitigate the increased risk of pirating in the 18th century as a result of English legal innovations. The unique context in which pirates sought profits, not a difference in pirate rationality, explains pirates’ eccentric and often bizarre behavior. Pirates’ infamous practices improved their efficiency “on the account,” enhancing their criminal enterprise’s profitability. Although the maritime nature of piratical criminal enterprise makes certain aspects of their profit-maximizing strategies specific to pirates, my analysis highlights important problems that any form of violent, organized criminal enterprise faces in its endeavor to enhance profits, as well as the solutions such organizations employ to overcome these problems.

To explore piratical profit maximization, I consider the late 17th- and early 18th-century (1670-1730) pirates who occupied the waterways that formed major trading routes surrounding the Bahamas, connecting Europe and the North American sea coast, between Cuba and Haiti, and around Madagascar. These areas encompass major portions of the Atlantic Ocean, Indian Ocean, Caribbean Sea, and Gulf of Mexico. The trade routes connecting the Caribbean, North America’s Atlantic sea coast, and Madagascar formed a loop called the “Pirate Round” that many pirates traveled in search of prey.

My investigation draws on the most important primary source historical documents relating to pirates. The first of these is Captain Charles Johnson’s *General History of the Pyrates* (1726-1728), which contains reports on a number of history’s most famous pirates related by a pirate contemporary.¹ I also draw on Alexander Exquemelin’s (1678) invaluable account of the 17th-century buccaneers. Exquemelin was a surgeon who sailed on a buccaneering vessel and provides a detailed firsthand account of their raids and profit-maximizing strategies. Buccaneers differ from ‘pure’ pirates in that they frequently plundered ships with government sanction. However, many

¹“Captain Johnson” is a pen name used by the author of *A General History of the Pyrates*. His true identity remains unknown. In 1932, John R. Moore claimed that Johnson was in fact Daniel Defoe. In the late 1980s, however, this view was overturned (see, Furbank and Owens 1988) and today many pirate historians do not believe that Defoe is the author of this important book (see, for instance, Cordingly 2006; Rediker 2004; Woodard 2007; for the opposing view see, Rogozinski 2000). Whatever Johnson’s true identity, it is agreed that he “had extensive first-hand knowledge of piracy” (Konstam 2007: 12). While it is acknowledged that Johnson’s work contains some errors and apocryphal accounts (such as the community of Libertalia), “Johnson is widely regarded as a highly reliable source for factual information” on pirates (Rediker 2004: 180) and remains a definitive source historians rely on in constructing their accounts of late 17th- and early 18th-century piracy. As eminent pirate historian David Cordingly put it, this book “is the prime source for the lives of many pirates of what is often called the Golden Age of Piracy” (2006: xx).

other times they plundered without official permission, as full-blown pirates. These proto-pirates, many of whom turned to pure piracy when governments stopped issuing licences for plunder, influenced and anticipated the practices of pure pirates in the later 17th and early 18th centuries.

In addition to these sources, I draw extensively on court records from pirate trials, 18th-century newspaper accounts of pirate activity, which as I discuss below played a crucial role in pirates' profit-maximizing activities, and the *Calendar of State Papers, Colonial Series, America and West Indies* (CSPC), which contains correspondence from colonial governors and others relating to piracy.² I also utilize papers from London's Public Records Office (PRO) and High Court of Admiralty Records (HCA), which are veritable treasure troves of primary source historical materials relating to 17th- and 18th-century pirates. Finally, a few pirate captives, such as William Snelgrave (1734), who were ultimately released by their captors, published longer works describing their harrowing captivities. I also draw on these accounts, which provide important firsthand records describing infamous pirate practices.³

2 Skull & Bones: The Economics of the Jolly Roger

Among the chief obstacles pirates confronted in attempting to maximize profit from plundering expeditions was keeping their costs down. Piratical costs of production included, among other things, the costs associated with battling potential prizes. Since armed robbery was the primary mechanism of piratical plunder, pirates faced the sorts of problems that any organized band of armed thieves would face. Foremost among these was minimizing violent conflict. If pirates failed to do this, they incurred several profit-eating costs.

First, conflict with a target meant the possibility of crew casualties. In addition to deaths, pirates found incapacitating injuries or other kinds of maiming costly to their crews. Injured pirates were less effective sea bandits. More important, however, late 17th- and early 18th-century pirates used an early form of workers' compensation to support crewmembers injured during duty. In Captain Bartholomew Roberts' pirate crew, for instance, the company's articles of agreement stipulated that "*If . . . any Man should lose a Limb, or become a Cripple in their Service, he was to have 800 Dollars, out of the publick Stock, and for lesser Hurts, proportionately*" (Johnson

²All newspaper accounts are reprinted in Baer (2007: vol. 1) unless otherwise noted.

³Additionally, this paper relies on and is greatly indebted to a voluminous modern literature covering all aspects of piracy, including those considered here, written by contemporary historians. Some of the best discussions belong to Rediker (1987, 2004), Cordingly (2006), Gosse (1946), Rankin (1969), Pringle (1953), Konstam (2002), and Rogozinski (2000).

1726-1728 [1999]: 12).⁴ Before dividing up their loot, pirate crews deducted the insurance amounts their articles identified, distributed these sums to injured pirates, and then divided the rest. More injuries therefore meant less booty for healthy crewmembers. To keep pirate insurance claims from becoming overbearing, pirates needed to minimize battle-related injuries.

The second profit-eating cost of violent battle was the potential for damage to the pirate ship. This was problematic on two fronts. First, it reduced pirates' effectiveness in chasing and defeating later prey. A pirate ship with a hole in it, for example, would be slower and less agile than an undamaged vessel. Further, since pirate ships were stolen, a damaged ship reduced pirates' ability to take undamaged ships as replacements. Because of this, a damaged ship needed to be repaired. Many repairs, however, had to be undertaken by pirate carpenters on or near land. Pirates identified a number of small hidden landings from which they could undertake such repairs. But additional time spent in repair reduced the time spent plundering merchant ships and increased the probability of capture by authorities.

When near the shore undertaking repairs or otherwise tending to the maintenance of their ships, pirate crews were very much vulnerable to attack. To "careen" their ships, for instance—the process of removing sea debris that accumulated on a ship's hull—pirates had to remove the ship's guns, cargo, and topmast, and heel her over with blocks and tackle fastened to the mast and trees ashore, allowing the ship to tilt sufficiently to expose one side of her bottom for cleaning and repair. Then the ship would need to be heeled over on her other side to expose the other half of the vessel's bottom for cleaning and repair. Exposed in this state, pirates were easy targets for navy ships or other pirate hunters. Walter Moore, for instance, captain of the *Eagle*, captured George Lowther's pirate crew while it was careening on an island off of Venezuela. To avoid these costs of a damaged ship, pirates needed to minimize the frequency and duration of repairs, which in turn required minimizing violent engagement with targets that damaged their ships.

Finally, battle between a pirate and its prey could damage the prize. Stolen ships had value to pirates since they sometimes "traded up" when they took a superior vessel. Of course, a damaged ship was less valuable to them than an undamaged one. In the extreme, if pirates inadvertently sunk their target, the entire prize would be lost. In this way, violent conflict not only contributed to the cost side of pirating expeditions, but could diminish the revenue side as well.

To reduce these cost of taking prey, pirates sought to overwhelm victims without violence.

⁴All page references to Johnson refer to the 1999 reprint. Page references to other early sources also refer to reprint if available.

“[T]heir whole policy was directed towards taking prizes without having to fight for them” (Pringle 1953: 113). Actually achieving this was harder than it sounds, however. Although pirate ships frequently outmanned and outgunned their quarries by a factor of three or more, merchant ships were not defenseless. Most carried several guns and some succeeded in damaging and escaping their pirate attackers. To minimize merchant ship resistance and thus the costs discussed above, pirates developed their infamous flag, the “Jolly Roger.” The origin of the Jolly Roger’s name is debated, but probably came from an antiquated and impolite nickname for the devil, “Old Roger.” Another possibility is that the name derives from the original French buccaneers’ red flags, the “*jolie rouge*,” or “pretty red.” Ironically, rather than an emblem of blood-thirsty pirates, the Jolly Roger reflects pirates’ strong desire to avoid violent conflict with their prey.

Pirate flags originated with the buccaneers in the 17th century. The buccaneers flew red flags, which communicated to targets that they would take “no quarter” if they were resisted. If the red flag was displayed and the target resisted, the assaulting pirates mercilessly slaughtered the target’s crew. Eighteenth-century pirates substituted black flags, often adorned with skulls and bones, for the buccaneers’ red ones. The first recorded account of the Jolly Roger is on the pirate Emanuel Wynne’s ship in 1700. A witness described it as “A Sable Flag with a White Death’s Head and Crossed Bones in the Fly” (quoted in Grey 1971: 17). By 1716 references to the Jolly Roger begin to appear regularly. The skull-and-crossbones motif has received the most attention. Captain Samuel Bellamy’s crew, for instance, flew the classic pirate ensign, a “large black Flag, with a Death’s Head and Bones a-cross” (*Trials of Eight Persons* 1718: 24). An eyewitness described the flags in Blackbeard’s fleet similarly, these being “Black Flags and Deaths Heads in them.” Some pirates never retired the red flag. Several ships in Blackbeard’s consort, for instance, flew “Bloody [i.e., red] Flags” (*Boston News-Letter* June 9-June 16, 1718; see, also, *Tryals of Major Stede Bonnet* 1719: v, 16). Other pirates used the black flag and red flag together. As Richard Hawkins, who was taken prisoner by pirates in 1724, explained it: “when they fight under *Jolly Roger*, they give Quarter, which they do not when they fight under the Red or Bloody Flag” (*British Journal* August 22, 1724).

However, pirate flags were considerably more varied than either the classic skull-and-bones on black or the plain red varieties suggest. They also depicted hourglasses, full skeletons, flexing arms, swords, bleeding hearts, and related symbols of strength, death, and destruction. One pirate ship discussed by Captain Johnson, for example, “let fly her Jack, Ensign and Pendant, in which was the Figure of a Man, with a Sword in his Hand, and an Hour-Glass before him, with a Death’s Head

and Bones.” Another “had the Figure of a Skeleton in it, and a Man pourtray’d with a flaming Sword in his Hand, intimating a Defiance of Death itself” (Johnson 1726-1728: 68; 245). Pirate captain Francis Spriggs’ crew favored a “*Jolly Roger*, (for so they call their black Ensign)” that had “in the middle of . . . [it] a large white Skeleton, with a dart in one hand, striking a bleeding Heart, and in the other an Hour Glass” (*British Journal* August 22, 1724; see, also, *Boston Gazette* March 21-March 28, 1726; *New England Courant* July 22, 1723). An unusual Jolly Roger reported by one witness was a photonegative of the traditional pirate flag, “a white Ensign with the figure of a dead man spread in it” (Governor Hamilton to the Council of Trade and Plantations, *CSPC*, January 6, 1718: Item 298, Vol. 30 (1717-1718), pp. 146-153).

A number of pirates coupled the Jolly Roger with the official flag of England or other countries. One witness, for instance, described Bartholomew Roberts’ ship, “English Colours flying, their Pirate Flagg at the Topmast-Head, with Deaths Head and Cutlash” (*Boston News-Letter* August 15-August 22, 1720). According to another eyewitness, Captain Roberts’ pirate fleet sailed under a veritable rainbow of national and pirate emblems. “The Colours they fought under (beside the Black Flag) were a red English Ensign, a King’s Jack, and a Dutch Pendant” (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 5).

At one point, Bartholomew Roberts went as far as to customize his ship’s flag to send a pointed message to the governors of Barbados and Martinique who dared to send warships to bring the notorious pirate captain to justice. According to Johnson, “*Roberts* was so enraged at the Attempts that had been made for taking him, by the Governors of *Barbadoes* and *Martinico*, that he ordered a new Jack to be made, which they ever after hoisted” (1726-1728: 221). Thereafter, this crew had “a black Silk Flag flying at their Mizen-Peek, and a Jack and Pendant of the same: The Flag had a Death’s Head on it, with an Hour-Glass in one Hand, and cross Bones in the other, a Dart by it, and underneath a Heart dropping three Drops of Blood—The Jack had a Man pourtray’d in it, with a flaming Sword in his Hand, and standing on two Skulls, subscribed *A.B.H.* and *A.M.H.* *i.e.* a *Barbadian*’s and a *Martinican*’s Head” (Johnson 1726-1728: 234; see also, 352).

Although the specific images on pirate flags varied, the purpose was the same in each case. As pirate captive William Snelgrave described it, this was “to terrify Merchant-Men” (1734: 199). The hourglass communicated that time was running out, the swords, fierce battle, and the skulls and skeletons, of course, death for resistors (Konstam 2002). Countless historians of piracy have echoed Snelgrave’s rationale for the Jolly Roger. But upon closer inspection, the traditional explanation for the Jolly Roger—to frighten targets—by itself, anyway, leaves something to be desired. Being

threatened by an attacker several times stronger than you would certainly strike fear into your heart. And, as noted above, the gap between pirate and prey strength could easily be this size or larger. But it is difficult to see how flying a skull-emblazoned flag would add substantially to this fear. The considerable strength superiority of pirates over their targets alone would seem to be enough to lead targets to surrender. It's puzzling, then, why pirates bothered at all with the trouble of constructing the Jolly Roger and then hoisting it when they were in striking distance of their prey.

Piratical signaling points to this puzzle's solution. During most of the great decade of piracy from 1716 to 1726, when the Jolly Roger makes its most frequent appearance, the maritime powers of Europe were officially at peace with one another. Despite this, throughout the period French and Spanish ships continued to attack British and other merchant vessels. Both France and Spain had "coast guards," government-commissioned warships, charged with protecting their respective coasts from illicit foreign traders called "interlopers." The Spanish "Guarda de la Costa" was the most enthusiastic enforcer of its country's trade monopoly. Officially, the Spanish coast guard was restricted to taking interlopers near the coasts it protected. In practice, however, these ships often cruised the waters far from shore in search of merchant vessels carrying any goods they could use to justify seizing in alleged violation of the law that restricted trade with Spain's possessions in the Caribbean.

From the end of the War of Spanish Succession in 1713 through the end of the Golden Age of Piracy in the late 1720s, British colonial officials in the West Indies and North America complained of the overzealous Spanish coast guard, which was capturing and condemning British trading vessels against the peace created in the Treaty of Utrecht. Virginia governor Alexander Spotswood, for instance, wrote to the members of the Council of Trade and Plantations in 1717 to inform them "that the Spaniards" had recently taken a "man and his vessell on the high seas without being near any of their Dominions, and without any hostility offered on his part." Spotswood added that "every vessell belonging to H.M. subjects may expect the like treatment" if the Guarda de la Costa were allowed to continue (Lt. Governor Spotswood to the Council of Trade and Plantations, *CSPC*, May 31, 1717: Item 595, Vol. 29 (1716-1717), pp. 316-321). This was not an isolated incident. Over the next ten years, colonial officials repeatedly complained of unscrupulous coast guards plundering innocent merchant ships (See, for instance, *Boston Gazette*, July 6-July 13, 1724; Governor Sir N. Lawes to the Council of Trade and Plantations, *CSPC*, May 18, 1722: Item 142, Vol. 33 (1722-1723), pp. 69-70; Deposition of John Kenney, *CSPC*, December 10, 1716: Item 425 i,

Vol. 29 (1716-1717), pp. 230-231; Governor Sir N. Lawes to the Council of Trade and Plantations, *CSPC*, January 31, 1719: Item 34, Vol. 31 (1719-1720), pp. 12-21; Lt. Governor Spotswood to the Council of Trade and Plantations, *CSPC*, May 31, 1721: Item 513, Vol. 32 (1720-1721), pp. 326-329; Deposition of Richard Thompson, *CSPC*, April 22, 1725: Item 574 v, Vol. 34 (1724-1725), pp. 359-360; Lt. Governor Pulleine to the Council of Trade and Plantations, *CSPC*, April 22, 1714: Item 651, Vol. 27 (1712-1714), pp. 332-334; Governor Hart to the Council of Trade and Plantations, *CSPC*, April 9, 1723: Item 496, Vol. 33 (1722-1723), pp. 238-241).

The situation had become so bad by 1726 that the merchants of London petitioned government officials begging them to address the problem. In their petition they wrote, “It has been a general practice, with the subjects of his Catholic Majesty in the West Indies, for several years past to fit out vessels in a warlike manner, on pretence of gaurding their coasts from unlawful traders: but, in reality under colour of such commissions have committed many depra-dations, and other acts of hostility, on your Majesty’s subjects, on the high seas, and even on the coasts of Jamaica It is notorious those guarda de la costa’s, as they are called, never met with an English vessel, and could overcome, which they did not take, destroy or plunder” (Petition of the Merchants of London, *CSPC*, May 20, 1726: Item 152, Vol. 35 (1726-1727), pp. 74-75; see, also, Merchants trading to Jamaica to the Council of Trade and Plantations, *CSPC*, May 31, 1724: Item 195, Vol. 34 (1724-1725), pp. 104-105). Although the Spanish coast guard posed the most consistent threat to British merchant ships, the French coast guard, ostensibly protecting French colonies in the West Indies, also engaged in attacks. As merchant ship captain Brathwaite complained to the governor of Bermuda, for instance, hostile vessels “calling themselves guards of the coast pretend to a commission from the General of Martinique for that end. But under that pretence take all English vessels they can overcome whether near the coast or at sea” (Captain Brathwaite to Governor Hart, *CSPC*, February 14, 1723: Item 496 i, Vol. 33 (1722-1723), p. 240).

The Spanish coast guard did not take merchant vessels on anything like the scale that Spanish privateers did in official times of war. Further, these ships confined their activity to the waters of the Caribbean and never went as far as the Indian Ocean, where pirates sometimes traveled. Nevertheless, beginning in the years following the end of the War of Spanish Succession and continuing beyond the rapid decline of piracy in the 1720s, there were other potential attackers in many of the areas pirates frequented. In addition to French and Spanish coast guard vessels, between 1719 and 1720 British and Spanish privateers also inhabited the waters surrounding the West Indies. A few traversed the water lanes encompassing portions of the greater Pirate Round, sailing as far

as the South Sea to the west and Africa's Atlantic coast to the east. The short and consequently oft-forgotten War of the Quadruple Alliance thus gave rise to another class of potential attackers, albeit in small numbers, who sought to seize merchant ships at the same time and in some of the same parts of the ocean as pirates.

The presence of these other belligerent marine vessels suggests why pirates went through the trouble of using the Jolly Roger when they attacked their prey: Pirates wanted to distinguish themselves from the other assaulting vessels that merchant ships might encounter. The Spanish *Guarda de la Costa* was criticized for sometimes inhumane treatment of British prisoners it took under questionable commission. Nevertheless, as government-sanctioned cruisers, at least in principle, authorities limited the viciousness coast guard vessels could show toward merchant crews they assaulted.⁵ They were not permitted to wantonly slaughter merchant crews that resisted them once these crews cried out for quarter, for instance. In contrast, pirates were not even theoretically constrained in how they treated those they overcame. Pirates were outlaws and would be hanged if authorities captured them whether they massacred merchant crews they attacked or not. Thus, for pirates, massacring resistors was essentially costless. A piratical threat to kill all those who did not immediately surrender to them peacefully was consequently a very credible one. This threat's credibility facilitated a simple pirate policy that one pirate described as "No Quarter should be given to any Captain that offered to defend his Ship" (Snelgrave 1734: 206).

An angry pirate therefore posed a greater danger to merchant ships than an angry Spanish coast guard or privateer vessel. Because of this, although, like pirate ships, Spanish coast guard vessels and privateers were almost always stronger than the merchant ships they attacked, merchant ships may have been more willing to attempt resisting these "legitimate" attackers than their piratical counterparts. To achieve their goal of taking prizes without a costly fight, it was therefore important for pirates to distinguish themselves from these other ships also taking prizes on the seas.

The Jolly Roger offered pirates a way to do this by signaling to targets that the sailors assaulting them were the totally unconstrained variety—those who could murder the entire crew they attacked if resisted. As one witness described it, the "black Flag with a Death's Head in it . . . is their Signal to intimate, that they will neither give nor take Quarter" (*White-hall Evening Post* October 18-October 21, 1718). The Jolly Roger, then, signaled "pirate," which meant two things: Resistance

⁵English privateers, for example, were instructed: "That no Person or Persons taken or surprised by you in any Ship or Vessel as aforesaid, though known to be of the Enemies side, be in cold Blood killed, maimed, or by Torture or Cruelty in humanly treated contrary to the Common Usage or Just Permission of War" (*The Arraignment, Tryal, and Condemnation, of Capt. John Quelch* 1704: 21). Similar instructions were most likely also issued to Spanish and French privateers.

will be met with slaughter. Peaceful submission will be met with mercy, allowing the overtaken merchant crew to live. As Snelgrave summarized it, the Jolly Roger's message to merchantmen was "to surrender on penalty of being murdered if they do not" (Quoted in Pringle 1953: 124). The skulls, swords, and bleeding hearts that graced many black flags left little room for interpretation. "[E]verybody knew what these images were meant to convey" (Konstam 2002: 100).

Since pirates were outlaws and, as I discuss below, viewed as particularly insane and barbaric ones at that, merchant crews correctly perceived the Jolly Roger's threat as credible. Pirate captain Edward Low, for example, "had [a victim's] Ears cut off close to his Head, for only proposing to resist . . . [his] black Flag" (Johnson 1726-1728: 335). In another case, Low's crew came upon a ship, "and because at first they shewed Inclinations to defend themselves and what they had, the Pyrates cut and mangled them in a barbarous Manner" (Johnson 1726-1728: 324). Bartholomew Roberts' assaulted a Dutch interloper, which, after "mentaining an obstinate defence for four hours . . . killed a great many of the pirates." Ultimately, however, the interloper "being overpower'd was forced to submit and what men the pirates found alive on board they put to death after several cruel methods" (News from Barbadoes, Antigua and Jamaica – Sent April 25, 1721 from Governor Bennett to the Council of Trade and Plantations, *CSPC*, February 18, 1721: Item 463 iii, Vol. 32 (1720-1721), pp. 294-296). For the most part, pirates also seem to have stuck to the sunny side of the Jolly Roger's promise: mercy for those who peacefully surrendered. According to William Snelgrave, for example, one of his pirate captors informed him that they "observe strictly that Maxim established amongst them not to permit any ill usage to their Prisoners after Quarter given" (1734 [1971]: 219). Low's company actually enshrined this policy in its articles, which stipulated "Good Quarters to be given when Craved" (*Boston News-Letter* August 1-August 8, 1723).

By all accounts the Jolly Roger worked marvelously in limiting violent conflict. As one pirate historian notes, "In the great majority of cases merchant ships surrendered without a fight when attacked by pirates" (Cordingly 2006: 121). Pirates "deliberately publicized [the] policy" behind their flags, "which was so effective that they hardly ever needed to kill" (Pringle 1953: 113). Captain Johnson, for example, describes one case in which two French cruisers chased Bartholomew Roberts' crew, mistakenly believing Roberts' vessel to be a foreign merchant ship prohibited by French monopoly from trading in such waters. "[S]upposing him to be one of these prohibited Traders, [the cruisers] chased with all the Sail they could make, to come up with him; but their Hopes, which had brought them very nigh, too late deceived them, for on hoisting of *Jolly Roger*, (the Name they

give their black Flag) their *French* Hearts failed, and they both surrendered without out any, or at least very little Resistance” (1726-1728: 226). Surely part of the fear motivating this surrender was the knowledge that, as pirates, Roberts’ men could and would devastate the French crews for resisting them.

Thus, most merchant crews responded to pirate attack in the way that Benjamin Edwards’ crew did when George Lowther’s pirates assaulted them. “[F]earing the Consequence of too obstinate a Resistance against those lawless Fellows,” they peacefully submitted to their pirate attackers (Johnson 1726-1728: 312). Indeed, pirate captain Ned Low simultaneously attacked several vessels and managed to take them all without spending so much as a bullet. “He threaten’d all with present Death who resisted, which stuck such a Terror to them, that they yielded themselves up a Prey to the Villains, without firing a Gun” (Johnson 1726-1728: 323). The Jolly Roger’s success in this regard may explain the surprising confidence one tiny pirate crew exhibited. Though they had only five crewmembers among them, they “sail’d away down the Coast, making them a black Flag, which they merrily said, would be as good as fifty Men more, i.e. would carry as much Terror” (Johnson 1726-1728: 371).

Central to the Jolly Roger’s effectiveness was its ability to satisfy the single-crossing property required for a separating equilibrium. The pirate flag was considerably more expensive for non-pirate sea predators to use than it was for pirates. The reason for this is straightforward. The Jolly Roger was a well-known symbol of piracy. As the court declared at the trial of Bartholomew Roberts’ crew, for instance, the accused had acted “under a Black Flag, flagrantly by that, denoting your selves common Robbers, Opposers and Violators of all Laws, Human and Divine” (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 5). Ships attacking under the death head’s toothy grin were therefore considered criminal and could be prosecuted as pirates. Since pirates were criminals anyway, for them, flying the Jolly Roger was costless. If they were captured and found guilty, the penalty they faced was the same whether they used the Jolly Roger in taking merchant ships or not—the hangman’s noose.

For legitimate ships, however, things were different. To retain at least a veneer of legitimacy, privateers and Spanish coast guard ships could not sail under pirate colors. If they did, they could be hunted and hanged as pirates. For example, Governor Hart of St. Christopher sent a man-of-war “who is now cruizing among the French and Spanish Islands of these practices, of the Spanish guarda de la costa’s; who is resolv’d to bring in all such pirates, where he shall find a black flag” (Governor Hart to Mr. Popple, *CSPC*, November 30, 1726: Item 360, Vol. 35 (1726-

1727), pp. 179-180). Because of this, while the Jolly Roger signal was “free” for pirates to send, it was very expensive for legitimate ships to send. As a result, pirates were more likely to use it than “legitimate” sea raiders. Upon seeing the Jolly Roger hoisted, merchant ships could therefore reasonably conclude that they were under pirate, as opposed to coast guard or privateer, attack. Knowing this, they knew it was better to surrender without resisting.

Despite this, it seems that in some cases at least, legitimate belligerent ships could not resist the benefits of hoisting the Jolly Roger to take targets. One colonial official who complained about the Spanish coast guard problem, for instance, suggested that one of these supposedly legitimate vessels—captained by a former pirate—was out cruising, taking British ships under pirate colors. “[W]hen he finds any vessel he can overpower, [he] hoists a black flag, and acts like a pirate. But if he meets any ship of war, or others that are too strong for him, he then produces a Commission from the Governor of Porto Rico, as a Guarda de la Costa” (Governor Hart to Mr. Popple, *CSPC*, November 30, 1726: Item 360, Vol. 35 (1726-1727), pp. 179-180).

This coast guard captain evidently remembered the considerable benefits of marauding under pirate colors. “[T]o intimidate” merchant ships into surrendering, several coast guard vessels, it appears, “frequently hoisted and fought under pirate’s colours” (Petition of the Merchants of London, *CSPC*, May 20, 1726: Item 152, Vol. 35 (1726-1727), pp. 74-75). These vessels were trying to cash in on the benefit of the easier surrender the Jolly Roger enabled by pretending they were pirates. So, although flying the black flag was very costly for legitimate belligerent vessels, it was not costly enough to prevent them from doing so altogether, a fact that undoubtedly irked many pirates.

The Jolly Roger, then, wasn’t able to establish a perfect separating equilibrium. But it must have avoided significant pooling as well, or else pirates, and “legitimate” belligerents who sometimes pretended to be pirates, would not have found any benefit in using it. Indeed, a comment from the anonymous author of one paper on the sugar trade who complained of coast guard vessels co-opting the Jolly Roger for their own purposes suggests that despite this contamination of the separating equilibrium pirates sought to establish with their flag, the Jolly Roger managed to preserve its purpose. Writing in 1724, this author remarked that navigation is made “as dangerous as it now is by pirates and the guard de coast vessels, the latter of which are undoubtedly supported underhand by the Spaniards in Europe.” He added that “On the faith of treaties our merchants fit out large adventures and fall into the hands of an enemy one dreams nothing of [the Spanish coast guard], and for that reason no resistance is made, but if there is up goe the pirate colours, at sight whereof

our men will defend their ship no longer” (Anonymous Paper on the Sugar Trade, *CSPC*, July 22, 1724: Item 276, Vol. 34 (1724-1725), pp. 168-170).

The implication of this fellow’s comments is clear. When merchantmen believed their attackers were non-pirates they might resist. But when merchantmen saw the Jolly Roger, they concluded they were under pirate attack and surrendered without further ado. Thus, although some Spanish coast guard ships illicitly appropriated the pirate flag, the fact that they did so confirms that the Jolly Roger signal was effective. Of course, if all “legitimate” belligerent vessels had done the same all the time, the Jolly Roger would have been rendered ineffective. But because of the high cost of doing so pointed to above, they did not, allowing the pirate flag to achieve its purpose despite pirate pretenders who sometimes adopted it.

3 Walk the Plank: The Economics of Pirate Torture

Violent conflict was not the only source of potential costs that 17th- and 18th-century pirates encountered in attempting to maximize profits “on the account.” Equally damaging to this endeavor was lost loot. Unsurprisingly, crewmembers aboard captured vessels were not always as forthcoming with the location of certain valuables aboard their ships as pirates would have liked. Although pirate prey overwhelmingly surrendered to their attackers without a fight at the sight of the Jolly Roger, some victims tried to foil pirates’ plunder in nonviolent, less detectable ways once they were boarded. For example, captured crewmembers sometimes hid valuables, such as the “Rings and Buckles” the cook on one of Roberts’ prizes stashed away (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 14). Hiding valuables, of course, was an attempt to prevent them from reaching pirate hands and to retain them for oneself.

In other cases, however, a captured vessel’s passengers might destroy booty to prevent pirates from taking it. One merchant captain that Edward Low attacked, for example, “hung eleven thousand moydores of gold in a bag out of the cabbın window, and as soon as he was taken by the said Lowe, cutt the rope and lett them drop into the sea” (Governor Hart to the Council of Trade and Plantations, *CSPC*, March 25, 1724: Item 102, Vol. 34 (1724-1725), pp. 71-73). Since retrieving goods from the murky depths of the ocean floor was not possible, destroying valuables was really an act cutting off one’s nose to spite one’s face. Still, desperation drove some pirate captives, like Low’s victim above, to try and destroy booty.

Pirates were not only keen to discover the location of money, however. In some cases, they were

equally interested in discovering papers that might provide them with valuable information, such as news of the course authorities had taken, or a suggestion of where the next rich prize might be sailing. After Blackbeard's crew seized one vessel, for example, "all their Papers were perused with the same Diligence as tho' it had been at the Secretary's Office here in England" (Johnson 1726-1728: 88). If such papers were on board but pirates could not locate them because their captives had hidden or destroyed them, pirates might miss an opportunity to increase their haul.

Captives' passive resistance therefore posed a threat to pirates' profit. If captured crewmembers hid or destroyed booty, revenue from even a successful plundering expedition would fall, resulting in a smaller shareout to each pirate. Pirates developed their much-famed practice of torturing captives in response to this problem.⁶ By inflicting heinous tortures on those who hid or destroyed valuables, or were suspected of hiding or destroying them, pirates could prevent these behaviors that would otherwise erode their revenue.⁷ Even more important than its ability to reveal stashed valuables on the prize a pirate crew had just taken, however, heinous pirate torture prevented crewmembers on future prizes from attempting to withhold valuable booty. Torture accomplished this by creating a reputation for pirate barbarity that spread throughout the maritime world. Pirates actively cultivated, and then cashed in on, this reputation, which scared most victims into surrendering everything they had that their pirate attackers wanted. Who would dare hide loot from a blood-crazed mob of "Barbarous and Inhumane Wretches" (*An Account of the Behaviour, Dying Speeches, and Execution of Mr. John Murphey* 1696)? Virtually no one, which is precisely why pirates endeavored to appear in this way.

To build a piratical brand name for insanity and ruthlessness, pirates promoted and publicized their image as psychopathic sadists, as men, one of their prisoners reported, "to whom it was a sport to do Mischief" (Barnard 1715: 7). They achieved this through word of mouth and printed advertisement, which strengthened and spread their ominous reputation. Pirates did not actually purchase advertisements for this purpose. But as I discuss below, they did receive free advertisement for their reputation in popular 18th-century newspapers, which unwittingly contributed to pirates' ruthless brand name, indirectly facilitating pirates' profit.

To develop a reputation for viciousness, pirates sought to impose the highest cost possible

⁶Although pirates chiefly used torture for profit-serving purposes, as in any population, in the pirate population, too, there were some psychopaths who inflicted harm on others for entertainment. Most pirates, however, seem to have comported more with the attitude pirate captain Sam Bellamy expressed when he said, "*I scorn to do any one a Mischief, when it is not for my Advantage*" (Johnson 1726-1728: 587).

⁷Pirates also used torture for two reasons not discussed here: First, pirates tortured captives to punish government officials for attempting to capture them or for capturing and hanging fellow pirates. Second, pirates used torture to punish unscrupulous or abusive merchant captains. See, Rediker (2004).

on captives who resisted their demands by hiding valuables. This is the primary reason why pirates spent so much time, as one court remarked, “*making their Hellish Inventions for unheard of Barbarities*” (*Tryals of Sixteen Persons for Piracy* 1726: 14). Relatively painless tortures, like the apocryphal walking of the plank, could not create a reputation that would lead victims to surrender everything in their possession to their pirate attackers. However, the idea that they may be cooked alive or forced to eat the severed ears from their own heads could. When pirates boarded a prize, they therefore enquired into the whereabouts of valuables. If captives were not immediately forthcoming with this information, pirates launched into a torturous frenzy.

Thus, in response to the merchant captain discussed above who threw a bag of gold into the ocean to prevent Edward Low’s pirate crew from taking it, “Lowe cutt off the said Masters lipps and broyl’d them before his face, and afterwards murder’d the whole crew being thirty two persons” (Governor Hart to the Council of Trade and Plantations, *CSPC*, March 25, 1724: Item 102, Vol. 34 (1724-1725), pp. 71-73). In a newspaper article in the *American Weekly Mercury*, a witness described how Low’s crew treated other resistant prisoners: “They cut and whiped some and others they burnt with Matches between their Fingers to the bone to make them confess where their Money was.” Apparently it worked. Low’s pirates “took to the value of a Thousand Pistoles from Passengers and others,” the article noted (*American Weekly Mercury* June 13, 1723).⁸

This response to passive pirate prisoner resistance was not unique to Low. Pirate captain Charles Vane “bound [one captive’s] hands and feet and ty’d (upon his back) down to the bowspritt with matches to his eyes burning and a pistol loaded with the muzzle into his mouth, thereby to oblige him to confess what money was on board” (Deposition of Edward North, *CSPC*, May 22, 1718: Item 551 ii, Vol. 30 (1717-1718), p. 263). Captain Edward England “threatned to sink” a victim’s “vessell and throw him overboard with a double headed shot about his neck, if he concealed where his money was” (Deposition of Robert Leonard, *CSPC*, February 24, 1718/19: Item 797 vi, Vol. 30 (1717-1718), p. 412). Pirate captain George Lowther also resorted to torture to reveal the location of hidden valuables, “placing lighted matches between the fingers of” his prisoners “to make them discover where the gold was” (Deposition of John Wickstead, *CSPC*: Item 754 iv, Vol. 33 (1722-1723), p. 365). A less imaginative pirate captain “threatened to shoot” a captive “for not discovering forty Ounces of Gold” the captive had apparently hidden aboard the ship (HCA 1/55 fol. 6).

The buccaneers had a particular skill for inflicting pain on prisoners who refused to surrender

⁸Reprinted in Dow and Edmonds (1996: 206).

booty. Their practice of “woolding” illustrates this well. Alexander Exquemelin vividly describes this torture, which the buccaneers administered to one recalcitrant prisoner: “they strappado’d him until both his arms were entirely dislocated, then knotted the cord so tight round the forehead that his eyes bulged out, big as eggs. Since he still would not admit where the coffer was, they hung him up by his male parts, while one struck him, another sliced off his nose, yet another an ear, and another scorched him with fire” (1678: 200; see, also, John Style to ‘the Principal Secretary of State, Whitehall,’ *CSPC*, January 4, 1670: Item 138, Vol. 7 (1669-1674), pp. 49-51).

To another pitiful fellow who refused to divulge the whereabouts of booty, “they tied long cords to his thumbs and his big toes and spreadeagled him to four stakes. Then four of them came and beat on the cords with their sticks, making his body jerk and shudder and stretching his sinews. Still not satisfied, they put a stone weighing at least two hundred-weight on his loins and lit a fire of palm leaves under him, burning his face and setting his hair alight” (Exquemelin 1678: 150). The French buccaneer Francois L’Ollonais added a special flair to his torture of several stubborn Spanish prisoners who refused to lead him to their hiding compatriots and money. L’Ollonais “being possessed of a devil’s fury, ripped open one of the prisoners with his cutlass, tore the living heart out of his body, gnawed at it, and then hurled it in the face of one of the others” (Exquemelin 1678: 107).

Taking a cue from their woolding forefathers, some 18th-century pirates quite literally squeezed valuable information from their prisoners. Pirate captive Richard Lazenby, for instance, described how Captain John Taylor’s crew treated several such prisoners. According to Lazenby, Taylor’s men “squeezed their [prisoners’] joints in a vice to extort confession.” On this particular occasion the pirates sought information about a prospective prize. But 18th-century pirates similarly “put [captives] to torture to confess their money” (Quoted in Grey 1971: 318; 317).

Not to be outdone by their buccaneering predecessors’ inventiveness, 18th-century pirates developed their own special tortures. Consider, for instance, “the sweat.” “The Manner of a Sweat,” one pirate prisoner explained in the pages of the *British Journal*, “is thus: Between the Decks they stick Candles round the Mizzen-Mast, and about twenty five Men surround it with Points of Swords, Penknives, Compasses, Forks, &c. in each of their Hands: *Culprit* enters the Circle; the Violin plays a merry Jig, and he must run for about ten Minutes, while each Man runs his Instrument into his Posteriors” (*British Journal* August 8, 1724).

Admittedly, pirates could become carried away in their zeal to prevent prisoners from concealing or destroying valuables. In one case, for instance, an unfortunate woman who several buccaneers

captured “was by some set bare upon a baking stone and roasted, because she did not confess of money which she had only in their conceit” (John Style to ‘the Principal Secretary of State, Whitehall,’ *CSPC*, January 4, 1670, Item 138, Vol. 7 (1669-1674), pp. 49-51). Despite such overzealousness, pirates could not afford to torture prisoners indiscriminately. Wrongly torturing on such suspicion too often would render torture ineffective for pirates’ purpose. If pirates developed a reputation for assured torture, and thus captives expected to be brutalized whether they delivered up their valuables or not, captives would not find it costly to hide loot.

Indeed, indiscriminate torture could even undermine the Jolly Roger’s effectiveness, discussed above. If the Jolly Roger signaled ‘pirate’ and pirates had a reputation for indiscriminate torture, targets would have a much stronger incentive to violently resist their attackers. Compared to the situation in which pirates rewarded peaceful submission, targets’ cost of violent resistance would be much lower in this case. Further, under a regime of indiscriminate pirate torture, targets’ benefit of escaping pirates would be much higher. For torture to constitute a penalty, when captives acquiesced to pirate demands, pirates needed to spare them such cruelty. Pirate captive Philip Ashton, for instance, “learned from some” of his captors “that it was one of their Articles Not to Draw Blood, or take away the Life of any Man, after they had given him Quarter” (Barnard 1715: 7). This helps explain the seeming generosity of the quartermaster on Captain Roberts’ ship who observed one of his men abusing a captive. When he saw this, “the Quarter-master came forward, and took the Pyrate off from beating him, asking him how he wou’d like it were he a Prisoner” (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 14). Thus, while pirates had an incentive to torture when they genuinely suspected captive resistance, it was not in their interest to do so wantonly.

Understanding pirate torture as a rationally-chosen means of developing a reputation for terror to prevent booty hiding and destruction provides a rather different interpretation to Captain Johnson’s comment that “In the Commonwealth of Pyrates, he who goes the greatest Length of Wickedness, is looked upon with a certain kind of Envy amongst them” (Johnson 1726-1728: 85; see also, 121). Because the reputation this “wickedness” created contributed to a threatening brand name, heinous pirate torture reduced pirates’ costs of passive captive resistance, enhancing their revenue.

Critical to the word-of-mouth process pirate barbarity depended upon, pirates required survivors who could relay the consequences of resisting their demands and spread tales of their wickedness to others. “Dead men tell no tales.” But this is precisely why pirates had a strong incentive to

avoid slaughtering compliant captives. Although in some cases it was “good Policy” to sink a captured vessel after relieving her of plunder “to prevent her returning to tell Tales at Home,” pirates often released some or all of the crewmembers who did not join them to return home where they could communicate their experience to others (Johnson 1726-1728: 298). Pirate captain John Phillips established a reputation as a “bloody, merciless ruffian” with the “diabolical disposition of an infernal fiend” this way. Thus, when Phillips captured John Fillmore, for instance, Fillmore was “dread to fall into [Phillips’] hands,” as he later recorded, “having heard of the cruelties committed by that execrable pirate” (Moseley 1790: 355; 358; 354).

The most public form of communication about pirates was through mass media, which in the 17th and 18th centuries meant newspapers published in London and New England. In addition to relating information about pirate movements, captures, and facts about crew composition, newspapers also related information from pirate victims and released pirate prisoners. Newspaper reporting on “piratical character” provided pirates further opportunity to build their reputations as insane, heartless heathens. One way they did this was by broadcasting their fiendish deeds to the legitimate persons they interacted with, who then might relate these deeds to a newspaper that would publish the account. For instance, according to one pirate captive’s information, published in the *American Weekly Mercury*, “The Pyrates gave us an account of” several of their violent depredations including their slaughter of crews, burning of ships, and a particularly proud act in which they “cut off one of the Masters Ears and slit his Nose” (*American Weekly Mercury*, June 13, 1723).⁹ The captive was astonished that “all this they confessed themselves.” But this is not astonishing at all in light of the helpful effects such boasting had on pirates’ reputation.

Another way pirates capitalized on newspaper reporting about their character was by fostering a “devil-may-care” image among the legitimate persons they interacted with, who again might relate this attitude to a newspaper that would publish the account. For instance, pirates loudly proclaimed to those they overwhelmed that they feared neither death nor the law. As the *British Journal* reported, for instance, the members of one pirate crew declared to their captives that “They have no Thoughts of ever being taken, but swear, with the most dire Imprecations, that if ever they should find themselves over-power’d, they would immediately blow their Ship up, rather than do *Jolly Roger* the Disgrace to be struck, or suffer themselves, to be hang’d like Dogs” (*British Journal* August 22, 1724). Or, as the *Boston News-Letter* reported, according to another pirate prisoner, his captors went about “often saying they would not go to Hope Point in the River of

⁹Reprinted in Dow and Edmonds (1996: 206).

Thames to be hung up in Gibbets a Sundrying . . . for if it should chance they should be Attacked by any Superiour Power or Force, which they could not master, they would immediately put fire with one of their Pistols to their Powder, and go all merrily to Hell together!” (*Boston News-Letter* August 15-August 22, 1720).

Pirates projected this attitude to such an extent that it became something of a sea-dog slogan. As Bartholomew Roberts famously boasted, for example, “a merry Life and a short one, *shall be my Motto*” (Johnson 1726-1728: 244). The operative word here was “short.” In part, declarations like Roberts’ were simple statements of fact. Few pirates managed to survive life on the account for more than a few years. But equally important, the pirate motto was also a useful way for pirates to signal that they had a high discount rate. This was a useful tactic for pirates since, if potential victims or authorities viewed them as reckless with their own lives, they would be less willing to risk engaging the pirates or raising their ire for fear of an irrational and kamikaze-like response. This helps shed light on pirate comments, like the remark one of William Snelgrave’s pirate captors made, that “as to his part, he hoped he should be sent to Hell one of these days by a Cannon Ball” (1734: 210). Even the melodramatics of Blackbeard’s last stand against Lieutenant Robert Maynard, reported in the *Boston News-Letter* for the public to consume, helped to solidify pirates’ reputation as short-sighted demons. As the newspaper described it, before engaging Maynard, “Teach called for a Glass of Wine, and swore Damnation to himself if he either took or gave Quarters” (*Boston News-Letter* February 23-March 2, 1719).

Pirates’ desire to build their brand name for cruelty and insanity may also help explain the seemingly senseless destruction of cargo pirates engaged in after taking some prizes, such as throwing parcels of goods overboard and torching ships that were not up to their piratical standards. In the same way that newspapers publicized pirates’ declarations of their high discount rates, newspapers also publicized these images of pirate madness. Consider, for example, how a victim of Bartholomew Roberts’ crew described his predators’ antics in the *Boston News-Letter*. According to the victim, Roberts’ men proceeded “with madness and rage to tare up the Hatches” and then “enter[ed] the Hould like a Parcel of Furies, where with Axes, Cutlashes, &c they cut, tore, and broke open Trunks, Boxes, Cases, and Bales, and when any of the Goods came upon Deck which they did not like to carry with them aboard their Ship . . . they threw them over board into the Sea . . . There was nothing heard among the Pirates all the while but Cursing, Swearing, Damning, and Blaspheming to the greatest degree imaginable” (*Boston News-Letter* August 15-August 22, 1720).

Richard Hawkins, who pirate captain Francis Spriggs victimized, described a similar scene of

madness about his encounter in the *British Journal*, noting “every Thing that please them not they threw over board . . . every individual Thing they destroy’d; broke all my Windows, knock’d down the Cabbin . . . and then deliver’d me my Ship in a despicable Condition” (*British Journal* August 8, 1724). One pirate victim’s account, published in the *Boston News-Letter*, spoke specifically to the pirates’ apparent godlessness and confirmed the popular perception that pirates were “in the Possession of the Devil” and “*laughing* at the very thunders of God” (*An Account of the Behaviour and Last Dying Speeches of the Six Pirates* 1704; Coleman 1726: 22). “In ravaging the Vessel,” this victim reported, “they met with two or three Bibles, at the sight whereof some started and said, They had nothing to do with them; or with God, nor any thing Above” (*Boston News-Letter* August 4-August 11, 1718).

The same brand-name considerations likely motivated pirates’ pyromania. Captain Johnson provides a list of reasons why pirates frequently burned ships, which he notes was “sometimes to prevent giving Intelligence, sometimes because they did not leave men to navigate them, and at other Times out of Wantonness, or because they were displeas’d with the Master’s Behaviour” (Johnson 1726-1728: 134). But the “Wanton” destruction Johnson describes was more likely a deliberate effort to foster an image of insanity and fearsomeness, as discussed above. For example, when a prisoner asked pirate John Phillips why his crew needlessly burned ships, Phillips “answer’d, it was for fun” (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 71). Those who witnessed such destruction “for fun” or read about it in newspapers were of course shocked and horrified by this behavior, which seemed to corroborate the picture of pirates that Boston’s Advocate General painted when he described pirates as having “declared themselves to live in opposition to the rules of Equity and Reason” (*Trials of Eight Persons* 1718: 6). In short, pirate “madness” had precisely the effect pirates desired.

A few pirates took name branding their fearsomeness a step further. Edward Teach, the “notorious pyrate better known by the name of Blackbeard,” is the best example of this (Petition of the Council and Assembly of the Settlements in South Carolina to the King, *CSPC*, February 3, 1720: Item 541, Vol. 31 (1719-1720), pp. 332-343). By creating a horrible and intimidating physical appearance, Teach cut an image so terrifying that it created a bloodcurdling reputation, which over time evolved into something of a Blackbeard brand name. Captain Johnson claims, for example, that “his Beard . . . did not a little contribute towards making his Name so terrible” (1726-1728: 84). Johnson describes the effect Blackbeard achieved with his appearance as follows:

Captain *Teach*, assumed the Cognomen of *Black-beard*, from that large Quantity of

Hair, which, like a frightful Meteor, covered his whole Face, and frightened *America* more than any Comet that has appeared there in a long Time.

This Beard was black, which he suffered to grow of an extravagant Length; as to Breadth, it came up to his Eyes; he was accustomed to twist it with Ribbons, in small Tails . . . and then turn them about his Ears: three Brace of Pistols, hanging in Holsters like Bandaliers; and stuck lighted Matches under his Hat, which appearing on each Side of his Face, his Eyes naturally looking fierce and wild, made him altogether such a Figure, that Imagination cannot form an Idea of a Fury, from Hell, to look more frightful (1726-1728: 84-85).

Rather than the result of flamboyance, madness, or eccentricity, pirates like Blackbeard deliberately constructed their bizarre and frightful physical appearances to facilitate piratical plunder. “There is no doubt that Blackbeard,” for instance, “was conscious of the public image he had created” and worked diligently to maintain it (Lee 1974: 22). Of course, most pirates looked more like the one described by this witness: “He is a middle-sized man, of a swarthy complexion, inclinable by his aspect to be of a churlish constitution; his own hair short and brown, and apt, when in drink, to utter some Portugese or Moorish words” (*CSPC*, May 9, 1700: Item 400 ii, Vol. 18 (1700), p. 236). Nevertheless, pirates could invest in appearances such as Blackbeard’s to complement their reputations for cruelty and insanity, which reduced victim resistance, and in turn promoted profits. For Blackbeard, at least, this investment paid off. According to historian Angus Konstam who has investigated Blackbeard’s life and piratical career extensively, until Blackbeard’s final battle with the lieutenant of HMS *Pearl*, Robert Maynard, who took the bearded icon’s life, the world’s most notorious and fearsome pirate had not so much as killed a single man (2006: 157). Apparently he didn’t need to.

4 Pressing Pegleg: The Economics of Pirate Conscription

At the turn of the 18th century, England began to earnestly crack down on the growing piracy problem that plagued its merchant marine. The English government deployed additional navy vessels to hunt down pirates and in 1717 and 1718 Britain offered a pardon to pirates who agreed to permanently retire from their trade. These actions helped to curb piracy. However, they primarily acted to support the centerpiece of government’s invigorated attack on pirates, which was new and

improved anti-piracy legislation.¹⁰ The effect of this legislation was to make piracy a considerably riskier employment. While relatively few pirates were captured and hanged in the late 17th century, by the second and third decades of the 18th century, government was capturing and hanging pirates regularly, leading to sea bandits' precipitous decline in 1722 and virtual extinction by about 1730.

By tightening the screws to pirates, government significantly raised the cost of pirating in the 18th century. But pirates did not sit by passively in the face of England's extermination campaign. Although pirates ultimately lost the fight for their survival, they cleverly responded to the changes in anti-piracy law, permitting them to mitigate the increased costs of pirating this legislation created.

In the very early days of piracy, between 1340 and 1536, England tried pirates under the civil law in special courts with jurisdiction over the high seas called admiralty courts. The pre-1536 law relating to piracy was deficient in many respects. Most significantly, to convict someone of piracy required either the accused to confess or two eyewitnesses, neither of whom could be an accomplice, to testify to his alleged act of piracy. In 1536 England introduced the "Offenses at Sea Act" (28 Hen. VI, c. 15), which rectified this deficiency by mandating that acts of piracy be tried according to common law procedure—a procedure that permitted accomplice testimony. This mandate put pirates' fate in the hands of a jury of 12 "peers," which heard cases at special "Admiralty Sessions" in England's criminal courts.

Like the law relating to piracy before 1536, piracy law under the Offenses at Sea Act was also flawed. Most significantly, it did not provide a practical way for England's growing colonies to handle the pirates they captured. Although a few colonies adopted their own legal procedures relating to piracy, colonial piracy trials were exceedingly rare and the High Court of Admiralty could overturn their decisions. In 1684 even most of these trials came to a halt when the English government decided the colonies did not have jurisdiction to try any cases of piracy (Baer 2005: 25). The 1536 statute obligated colonial officials to ship accused pirates and witnesses to pirates' alleged crimes to England to attend trial. Since a great deal of piracy took place in and around England's distant colonies, the Offenses at Sea Act left a serious impediment to effectively dealing with sea bandits. As a later law read:

it hath been found by experience, that Persons committing Piracies, Robberies, and Felonies on the Seas, in or near the East and West Indies, and in Places very remote, cannot be brought to condign Punishment without great Trouble and Charges in sending

¹⁰For an excellent and more in depth account of anti-piracy legislation, upon which my discussion is largely based, see, Baer (2007, 2005).

them into England to be tried within the Realm, as the said Statute directs, insomuch that many idle and profligate Persons have been thereby encouraged to turn Pirates, and betake themselves to that sort of wicked Life, trusting that they shall not, or at least cannot be easily questioned for such their Piracies and Robberies, by reason of the great trouble and expense that will necessarily fall upon such as shall attempt to apprehend and prosecute them for the same.

In response to this problem, in 1700 England introduced “An Act for the More Effectual Suppression of Piracy” (11-12 Will. III, c. 7). The new statute empowered colonies with commissions from the crown or Admiralty to preside over Vice-Admiralty courts to try and punish pirates on location. According to the Act:

That all Piracies, Felonies & Robberies committed in or upon the Sea, or in any Haven, River, Creek or Place, where the Admiral or Admirals have Power, Authority or Jurisdiction may be examined, inquired of, tried, heard and determined, and adjudged, according to the Directions of this Act, in any Place at Sea, or upon Land in any of His Majesty’s Islands, Plantations, Colonies, Dominions, Forts or Factories, to be appointed for that purpose by the King’s Commission or Commissions under the Great Seal of England, or the Seal of the Admiralty of England.

In Vice-Admiralty courts, seven or more commissioners sat in judgment of accused pirates. Trial by jury, per common law procedure, which an accused pirate still enjoyed if he were tried in England, was not (with a single exception) afforded him if he were tried in one of the colonies, as was increasingly the case. The creation of regular colonial courts with the authority to try pirates proved a tremendous boon to government’s assault on sea robbers. Parliament originally created the 1700 Act to expire in only seven years. But owing to the great effect it had in permitting the more regular prosecution of pirates, parliament renewed it several times following the War of Spanish Succession and made the law permanent in 1719.

An Act for the More Effectual Suppression of Piracy made successful pirating more difficult, and thus more costly, in two additional ways. First, it treated active pirate sympathizers as accessories to piracy, and stipulated the same punishments for them—death and property forfeiture—as for actual pirates. According to the Act:

AND whereas several evil-disposed Persons in the Plantations and elsewhere, have contributed very much towards the Increase and Encouragement of Pirates . . . Be it

enacted by the Authority aforesaid, That all any every Person and Persons whatsoever, who . . . shall either on Land, or upon the Seas, wittingly or knowingly set forth any Pirate, or Aid and Assist, or Maintain, Procure, Command, Counsel or Advise any Person or Persons whatsoever, to do or commit any Piracies or Robberies upon the Seas . . . [or shall] receive, entertain or conceal any such Pirate or Robber, or receive or take into his Custody any Ships, Vessels, Goods or Chattels, which have by any such Pirate or Robber piratically and feloniously taken . . . are hereby likewise declared . . . to be Accessary to such Piracy and Robbery . . . And . . . shall and may be . . . Adjudged . . . as the Principals of such Piracies and Robberies.

Second, the law encouraged merchantmen to defend themselves against pirate attacks by providing them a reward “not exceeding Two Pounds per Cent. Of the Freight, and of the Ship and Goods so defended.” By 1717 England not only rewarded individuals for defensively resisting pirate aggression; it also rewarded them for offensively initiating aggression against pirates. The proclamation of these rewards was published in the *Boston News-Letter* and awarded “*for every Commander of any Pirate-Ship as Vessel the Sum of One hundred Pounds; for every Lieutenant, Master, Boatswain, Carpenter, and Gunner the Sum of Forty Pounds; for every Inferior Officer the Sum of Thirty Pounds; And for every Private Man the Sum of Twenty Pounds*” (*Boston News-Letter* December 2-December 9, 1717).

In 1721 parliament bolstered the law relating to piracy (8 Geo. I, c. 24) again, this time to hold accountable anyone who traded with pirates. Under the new the law, any person who “any wise trade with any pirate, by truck, barter, exchange, or any other manner” was “deemed, adjudged and taken to be guilty of piracy” and punished as the same. Further, to the carrot of reward money, which the 1700 law promised merchantmen that successfully defended their ships and cargo against pirate attack, the 1721 law added the stick of wage forfeiture and six months imprisonment for armed merchantmen that did not attempt to defend themselves against pirate aggression.

The other important addition in the 1721 law was a provision punishing naval vessels that were supposed to be protecting merchant ships from pirates and hunting the sea rovers down for engaging in trade instead. His Majesty’s warships had taken to using the government’s vessels as their personal trading convoys rather than using them to defend merchantmen and capture pirates, as they were charged to do. In 1718, for example, Jamaica’s governor complained to the Council of Trade and Plantations of “the neglect of the Commanders of H.M. ships of warr, who are said to be appointed for the suppressing of pyrates and for a security to this Island, and protection of

the trade thereof, but in reality by their conduct, have not the least regard to the service they are designed for” and instead are engaged in “transporting goods and merchandize which otherwise would be done by vessells belonging to the Island” (Governor Sir. N. Lawes to the Council of Trade and Plantations, *CSPC*, June 21, 1718: Item 566, Vol. 30 (1717-1718), pp. 270-272).

In addition to punishing private individuals who aided and abetted pirates, these legal changes could also be used to prosecute public officials, some of whom directly or indirectly supported pirates. In addition to corrupting some merchant sailors, the potential riches of piracy corrupted some men in government as well. As colonial governor of Virginia Alexander Spotswood complained, “People are easily led to favor these Pests of Mankind when they have hopes of Sharing in their ill-gotten Wealth” (Spotswood May 26, 1719 [1882-1885] II: 319; see, also, Governor the Earl of Bellomont to the Council of Trade and Plantations, *CSPC*, Oct 24, 1699: Item 890, Vol. 17 (1699), pp. 486-494; Governor the Earl of Bellomont to Council of Trade and Plantations, *CSCP*, May 18, 1698: Item 473, Vol. 16 (1697-1698), pp. 224-229; Information of Henry Watson, *CSPC*, Aug 25, 1698: Item 770, Vol. 16 (1697-1698), p. 403). In the face of strong punishments for showing such favor, the law could indirectly squeeze the pirates who relied on legitimate citizens to carry on their criminal trade.

Pirates rationally responded to these changes that made pirating riskier with their own tricks for circumventing punishment under the law. The primary trick they employed for this purpose was conscription.¹¹ This conscription had one catch, however; in many cases it wasn’t real. More than a few sailors that pirates forced to join them were, in the words of Captain Johnson, “willing to be forced” (1726-1728: 65).

Contrary to popular depictions of pirates, most were volunteers, not conscripts. Unlike the Royal Navy, which often had to impress men to obtain the sailors it needed, “pirates had no difficulty in recruiting ordinary seamen to their ranks” without force (Cordingly 2006: 122; see also, Rankin 1969: 34). As Leeson (2007) discusses, life on 17th- and 18th-century merchant ships was difficult, sometimes cruel, and offered minimal income-earning potential for ordinary sailors. Life aboard pirate ships was no picnic either, but was considerably easier, less abusive, and offered substantially greater income-earning possibilities. If a pirate captive could overcome his moral dilemma, in many cases, the choice to join his captors was probably not difficult to make at all. As one of William Snelgrave’s pirate captors informed him, for instance, “the People were generally

¹¹Leeson (2008) analyzes the economics of pirate slavery in the context of specifically black sailors and in particular its relative absence in contrast with black slaves’ status in the merchant marine.

glad of an opportunity of entring with them,” which Snelgrave lamented, “last was but too true” (1734: 203).

Pirates preferred volunteers over conscripts for several reasons. First, since they were outlaws and could not rely on government to facilitate social cooperation, pirates had to rely on private institutions of self-governance for this purpose instead. Central to pirates’ system of self-governance were pirate articles, noted above, which operated as constitutions for the crewmembers of a particular pirate ship. Pirate crews unanimously consented to the articles governing their ships. This helped to prevent conflicts and disagreements that might otherwise jeopardize their ability to successfully cooperate for plunder. While a pirate crew could compel coerced seamen to sign its articles, and in some cases did, since these seamen did not do so voluntarily, they did not consent to the ship’s laws in the same way the rest of the crew. By undermining the genuine unanimity pirates’ used to secure cooperation on their ships, conscription could undermine the very purpose the articles served. Bartholomew Roberts, who “several times openly declared . . . and ask’d of them [he overtook], who was willing to go, for he would force no Body,” seems to have understood this well. Conscripts, Roberts appreciated, “might hazard, and, in Time, destroy his Government” (Johnson 1726-1728: 248).

In addition to posing a threat to piratical harmony, conscripted seamen could be the undoing of a pirate company if they revolted against their pirate pressers. Pirate captain John Phillips discovered this when seven forced men in his crew, led by pressed carpenter Edward Cheeseman, designed “to overthrow the pyratival Government” on Phillips’ ship and succeeded owing to “how few voluntary Pyrates there were on board” (Johnson 1726-1728: 346; see, also, *American Weekly Mercury*, July 7-July 14, 1725). Cheeseman and the other conscripts revolted, delivered their pirate captors to the authorities, and must have been quite pleased when the brutes were convicted and executed. Forced men also overwhelmed pirate captain William Fly on the *Fame’s Revenge*, delivering Fly and his pirates to authorities who ultimately condemned the pirates to death. Similarly, if authorities ever captured a pirate ship, prisoners, such as conscripted crewmembers, would be the first to turn on their captors and, as firsthand observers of the latter’s piratical acts, could supply damning evidence against them. In Virginia, for example, “a Man and a Woman” “who had been Prisoners among the Pyrates . . . became the principal Evidences to convict” their pirate captors (*Daily Courant* August 31, 1720).

Conscripts were also prone to try and desert their pirate pressers at the first chance. If they constituted a substantial portion of the pirate crew they were deserting, their departure could leave

the pirates high and dry, with insufficient sailors to man the ship in overtaking prizes. An escaped conscript could also provide authorities with information they could use to capture or convict pirates. A forced man on pirate captain John Gow's *Revenge*, for instance, escaped, "surrender'd himself to the Government . . . and inform'd them who Gow was, and what the Ship's Crew were . . . with what else he knew of their Designs" (*An Account of the Conduct and Proceedings of the Late John Gow* 1725: 32). Even if conscripts never managed to escape, provided that they comprised a significant proportion of the crew, they nevertheless significantly weakened the ship they sailed on. Forced men, of course, were less likely to "give it their all" in battle, and might even deliberately "give little" so that their crew would be captured. For instance, Captain Cornelius, who shortsightedly stocked his pirate crew with 70 conscripts, spotted several Men of War and "was for giving Chase, but finding his Men unwilling, there being, as they gave for Reason 70 forc'd Men on board," had no choice but to sail elsewhere (Johnson 1726-1728: 601). Similarly, Captain Gow's pirates had to flee from a prospective French quarry, Gow giving "as a Reason against engaging with the Martinico Ship, that he had a great many Prisoners on Board" (*An Account of the Conduct and Proceedings of the Late John Gow* 1725: 24).

Because of these costs of pressing sailors, pirates were reluctant to force unwilling seamen to join them unless they had no other choice. Some pirates went to great lengths to avoid conscripting the sailors they needed. When pirate captain Edward Low captured Philip Ashton, for instance, he began with the pirates' traditional inquiry of the captured crew about who would join them. As Ashton put it, "according to the Pirates usual custom . . . [he] asked me, *If I would sign their Articles, and go along with them.*" A man of strong moral fiber, Ashton declined. When this failed, Low returned to him some time later and "asked the Old Question, Whether we would Sign their Articles, and go along with them?" When Ashton refused again, Low waited some more and then re-approached Ashton, this time demanding "with Sternness and Threats, whether I would Joyn with them?" Upon his third refusal, the pirates "assaulted" Ashton—but not with fists. Rather, they subjected the upright sailor to "Temptations of another kind, in hopes to win me over . . . [they] treated me with an abundance of Respect and Kindness," offering Ashton a drink and doing all they could to "sooth my Sorrows." Only when Ashton rebuffed the fourth advance did a frustrated Low resort to violent intimidation, declaring, "*if you will not Sign our Articles, and go along with me, I'll shoot you thro' the Head*" (Barnard 1715: 2, 4). Much to Low's consternation, Ashton remained obstinate, at which point the pirate captain dragged Ashton with him anyway. In the end, Low forced Ashton. But the pirate captain's actions clearly demonstrate he appreciated

the high cost of a conscript and the benefit of a volunteer.

Despite his captor's advances, Ashton stuck to his guns. He was an unusually righteous fellow in this respect. Many other captured sailors did not share Ashton's rectitude. Rather, as Snelgrave observed, they "were generally glad of an opportunity" to join the pirates. A number of pirate observers confirm this fact and pirates' aversion to conscripting sailors. As Governor Bennett of Bermuda complained to the Council of Trade and Plantations, for example, "I fear they will soon multiply for to many are willing to joyn with them when taken" (Lt. Governor Bennett to the Council of Trade and Plantations, *CSPC*, May 31, 1718: Item 551, Vol. 30 (1717-1718), pp. 260-264). Alexander Spotswood similarly lamented to the Commissioner of the Admiralty that the pirates' "strength increases daily by the addition of new men from those Ships that fall in their way, though they give out that they will force no man into their Service" (Spotswood May 30, 1717 [1882-1885] II: 249).

A late 17th-century pirate contemporary observed this feature of pirates as well. In describing one pirate crew that augmented its ranks after taking a prize, for instance, he noted "This was dun . . . without any force or Compulshon, as the pyratts themselves did declare That thay did not nor would not force him nor sundry more which did intend To goo with them" (Deposition of Jeremiah Tay July 6, 1694, Suffolk Court Files, No. 3033, Paper 6).¹² Pirate captive John Brett testified at the trial of a member of Sam Bellamy's crew that "it was the Custome among the Pyrattes to force no Prisoners, but those that remained with them were Voluntiers" (Trial Records of Thomas Davis October 28, 1717, Suffolk Court Files, fragment 99).¹³ Likewise, another witness observed, "the pyrattes, who at that time forced no Body to go with them, and said they would take no Body against their Wills" (Trial Records of Simon van Vorst October 1717, Suffolk Court Files, No. 10923).¹⁴ Captain Johnson also refers to pirates who "strengthen'd themselves with a great many fresh Hands, who most of them enter'd voluntarily" (1726-1728: 170).

Some seamen did not just enter willingly with the pirates that overtook them. They begged to join their aggressors. For instance, when Bartholomew Roberts' crew captured the *Onslow*, a frigate that was transporting soldiers, eager volunteers overwhelmed the pirates. As one witness reported, far from the pirates needing to force anyone, "more would have enter'd than they would accept of." According to another witness, "the Pyrattes despised most of" the *Onslow*'s volunteers "that enter'd with them, and received them, on their Petitions, only out of Charity" (*A Full and*

¹²Reprinted in Jameson (1923: 150).

¹³Reprinted in Jameson (1923: 308).

¹⁴Reprinted in Jameson (1923: 304).

Exact Account, of the Tryal of all the Pyrates 1723: 50, 51).

Indeed, far from conscripting sailors indiscriminately, some pirates were quite selective in who they allowed to join them. Some pirate crews, for example, were unwilling to take married seamen into their service. Ned Low, for instance, refused married men in his crew, “that he might have none with him under the Influence of such powerful attractives, as a Wife & Children, lest they should grow uneasy in his Service, and have an Inclination to Desert him, and return home for the sake of their Families” (Barnard 1715: 3). Bartholomew Roberts’ pirates wouldn’t allow landlubbers to join them, taking “none but Sailors into their Company.” Neither would Roberts permit Irishmen to enter his crew, “which Country Folks was against the Pyrates Rules to accept of, because they had been formerly cheated by one *Kennedy* an *Irish* Man, who run away with their Money” (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 13, 37).

Yet, the “pirate press” is not all myth. Although pirates preferred volunteers and were often able to augment their ranks this way, when it came to skilled sailors, they could not always find the volunteers they needed. In these cases pirates pressed sailors into their service. Like merchant ships, pirate ships also needed certain skilled sailors in their crews. However, unlike unskilled sailors, certain skilled varieties were harder to come by. Furthermore, in contrast to unskilled seamen who were more-or-less easily substitutable among one another in terms of the labor they performed on the ship, and none of whom individually was especially important to the crew’s overall success, skilled seamen could not be easily substituted with other men and their presence was critical to the rest of the crew’s ability to function.

Pirate captain Thomas Howard’s crew, which “forced on board all Carpenters, Cawlkers, Armorsers, Surgeons, and Musicians,” provides a good example of the kinds of highly-skilled seamen pirates most frequently pressed (Johnson 1726-1728: 489). Although pirates primarily limited conscription to skilled sailors such as these, they did not take a principled stance against forcing unskilled sailors if they needed them and could not find volunteers. It is interesting to note that even in these cases, however, after only a brief time pirating some initially forced men grew to rather enjoy their new occupation and joined the crew as volunteers. As one 18th-century observer put it, “Doubtless ‘tis possible for a man to prove a hearty Rogue after he is forced into the Service of the Pirates, however Honest he was before, and however Undesignedly or against his Consent he at first come among them” (*An Account of the Conduct and Proceedings of the Late John Gow* 1725: 14). One captured merchant captain, for example, remarked that two of his men “were at first forc’d,” by his pirate attackers, “but,” he added, “I have Reason to believe they turn’d Pyrates

afterwards” (*British Journal* August 22, 1724). Similarly, pirate prisoner Harry Glasby commented at Robert Crow’s trial that although he believed Crow might have been “forced at first” by his pirate captors, he “since had done as others (*i.e.*) robb’d and pillaged when he went on board Prizes in his turn” (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 40).

Some prisoners “converted” because pirate crews often denied conscripts the rights afforded to volunteers, such as participation in the ship’s democratic decision making, the right to their shares of plunder, and the right to settle disputes with other crewmembers by duel. Pirate conscript Joseph Williams, for example, was “drubb’d” by Robert Bland, a volunteer pirate in the crew he was forced into. “*Williams* that he might revenge himself, and have Liberty to fight *Bland*, went that Instant and entered himself as Voluntier in the Ship’s Books, and ask’d Leave to fight *Bland*, which was allowed him” (Johnson 1726-1728: 601). More than a few pirates who initially entered pirate companies against their will, including the 18th century’s arguably most successful sea bandit, Captain Bartholomew Roberts, went on to enjoy lives as successful pirate volunteers.

Although most pirates were volunteers, a superficial reading of the historical record relating to piracy would seem to suggest precisely the opposite. At their trials, pirates time and again pointed to the fact “that they were forc’d men,” compelled against their wills into piracy. Sailors commonly pleaded that they joined the pirates only because their captors “would, have shot them on Refusal” to serve with them (Johnson 1726-1728: 260). This is the origin of the popular myth of the ubiquitous pirate press. The key to reconciling the testimony from pirate observers discussed above, which suggests that most pirates were volunteers, and the testimony from many pirates themselves, which suggests that nearly all pirates were conscripts, lies in understanding the pirate press as a device pirates used to reduce the increasing costs of piracy in the 18th century as a result of the anti-piracy legal innovations considered above.

Once authorities apprehended them, most pirates had little to offer in their defense at their trials. As a result, lame arguments abounded. A key piece of William Taylor’s defense, for instance, was that he was “given to Reading, not swearing and bullying like others of them” (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 61).¹⁵ This argument failed to persuade the court. The one defense that did occasionally prove effective, however, was that pirates had pressed a sailor into their service when they captured his ship. The law harshly punished individuals who willingly robbed on the sea. Most convicted pirates were hanged. However, courts were reluctant to condemn men who pirates compelled into service under the threat of death or bodily harm. If

¹⁵Though, in fairness to this fellow, this character evidence was presented to support the claim he was forced.

accused pirates could demonstrate to the court that they were in fact pressed men, they could escape their trials unscathed. As Captain Johnson observed, “the plea of Force was only the best Artifice they had to shelter themselves under, in Case they should be taken” (1726-1728: 248).

Under the law, “The court acquitted all those who could prove that they had been forced to join the pirates” (Cordingly 2006: 233). The court that tried several of Bartholomew Roberts’ crewmembers in 1722, for instance, identified “the three Circumstances that compleat a Pyrate; first, being a Voluntier amongst them at the Beginning; secondly, being a Voluntier at the taking or robbing of any Ship; or lastly, voluntarily accepting a Share in the Booty of those that did” (Johnson 1726-1728: 249-250). Or, as the court that tried William Kidd indicated, “there must go an Intention of Mind and Freedom of the Will to the committing an Act of Felony or Pyracy. A Pyrate is not to be understood to be under Constraint, but a free Agent; fir in this Case, the bare Act will not make a Man guilty, unless the Will make it so” (Johnson 1726-1728: 449). Clearly, voluntarily complicity with a pirate crew was important to establishing guilt. Pirates exploited this loophole by pretending to conscript seamen who in fact joined their ranks voluntarily. Since, as discussed above, pirates actually compelled some seamen to join their companies, court officials saw the impressment defense as plausible.

For their ruse to work, pirates needed to concoct evidence that other pirates had conscripted them. Although many pirates attempted to escape punishment by simply claiming they were forced, absent corroborating evidence to this effect, the impressment defense was not usually persuasive. Pirates generated convincing evidence of their impressment in two ways. First, conscripts, real and pretend, asked their captured fellow sailors or captain who the pirates released to advertise their impressment in one of the popular London or New England newspapers discussed in Section 3. If authorities ever captured the pirate crew the “conscripts” sailed with, “conscripts” could use the newspaper ads verifying their forced status as evidence in their defense. After being “forced on Board” Captain Roberts’ ship, for instance, Edward Thornden “desired one of his Ship-Mates . . . to take notice of it, and incert it in the *Gazette*” (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 14).

These ads were common (see, for example, *Boston News-Letter* April 7-April 14, 1718; *Boston News-Letter* August 22-August 29, 1720; *Boston News-Letter* August 7-August 14, 1721; *New-England Courant* May 13-May 20, 1723; *Boston Gazette* September 30-October 7, 1723; *Boston Gazette* May 10-May 17, 1725; *Boston News-Letter* November 25-December 2, 1725; *Boston Gazette* December [?], 1725; *Boston News-Letter* August 1-August 8, 1723). Out of guilt, pity, or perhaps

even complicity, most released sailors were only too willing to place them for their unfortunate friends. If they were not, a little palm grease could help things along. Sailors considered these ads such important evidence of their innocence that they had no compunction about paying fellow crewmembers to place them. Nicholas Brattle, for example, “gave all his Wages” to his captain “to put him in the *Gazette* as a forced Man” (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 21).

“Ads of force” were a marvelous invention for conscripted sailors. But they were equally useful to volunteers who wanted to insure themselves against conviction in the event of their capture. Such sailors could join the pirates, ask their released colleagues to place an ad verifying their conscription in the paper, and proceed to go roving about with the comforting knowledge that if the law ever caught up with them, they had at least a reasonable shot of getting off as forced men. What’s more, this invention was an excellent recruiting tool for pirates. By reducing the cost of piracy, “ads of force” made it easier for pirates to find volunteers in the face of a more dangerous legal environment. Thus, far from objecting to these ads, in some cases at least, pirates actively encouraged them. Aboard one ship, for instance, “*the Quarter-Master of the Pirate Publickly Declared, they would carry them [captives], and let them send to New England and Publish it if they pleased*” (*Boston News-Letter* July 2-July 9, 1722).

The second ruse that seamen who were eager to join the pirates used to insure themselves against conviction if captured worked to enhance the first. Such sailors staged “shows” of pirate impressment in coordination with their attackers to be acted out in front of their more scrupulous sailing companions who had no intention of becoming “Brethren in Iniquity.” When pirates attacked a merchant ship, for example, the ship’s crewmembers who wanted to join the pirates might devise a plan whereby one of the aspiring sea bandits would pull aside the pirate captain or quartermaster and inform him of their desire to join the company. The eager sailors would then request their pirate captor to make a public spectacle of compelling their service to convince their fellow crewmembers who did not desire to enter with the pirates that they were indeed conscripted. “Their request was granted with much waving of cutlasses and brandishing of pistols and shouting in the hearing of the officers and men on the merchant ship who were not going to join the pirates” (Pringle 1953: 115).

Captain Roberts, for instance, asked one prize’s crewmembers “whether they were willing to go with him? for that he would force no body; but they making no Answer, he cry’d, these Fellows want a show of Force” and pretended to conscript the sailors, who in reality had “agree[d] one

with another to enter” (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 50). As Captain Johnson put it, “the pretended Constraint of Roberts, on them, was very often a Complotment between Parties equally willing” (1726-1728: 248). These shows of force helped to legitimize the advertisements that pretend conscripts used to insure themselves against the risk of conviction if authorities captured them. Since honest captives believed they had witnessed their comrades’ conscription, they had no scruples about placing ads publicizing the “victims”’ names in the newspaper. Further, since witnesses to shows of force believed this force was genuine, they could supply compelling testimony of their former crewmen’s compelled status at trial if authorities later captured the pirates.

According to historian Patrick Pringle, “[t]his ruse often worked” (1953: 115). The reason it often worked is rooted in courts’ heavy reliance on observer testimony about accused pirates’ free or coerced status in determining their guilt or innocence. For instance, pirate prisoners Stephen Thomas, Harry Glasby, and Henry Dawson testified on accused pirate Richard Scot’s behalf at his trial. All three testified that Scot “was a forced Man.” What persuaded them of this was largely Scot’s demeanor and behavior while among the pirate crew. Scot, they deposed, “lamented his Wife and Child . . . with Tears in his Eyes” and “received no Share” in the pirates’ plunder. “The Court from these several Circumstances concluded he must be a forced Man” and acquitted him (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 27).

Similarly, eyewitness testimony that a sailor seemed to act freely or was pleased to be among the pirates could be crucial in establishing his guilt. According to the testimony of one pirate captive, for example, “I was a Prisoner, Sir, with the Pyrates when their Boat was ordered upon that Service, and found, upon a Resolution of going, Word was pass’d thro’ the Company, Who would go? And I saw all that did, did it voluntarily; no Compulsion, but rather pressing who should be foremost” (Johnson 1726-1728: 261; see, also, 271; 274; 652-653). The court found the pirates he testified against guilty and sentenced them to hang. By the same token, a sailor stupid enough to publicly declare his piratical desires could expect eyewitness testimony to this effect at his trial if pirates later captured his crew and he went along with them. One such sailor, Samuel Fletcher, whose fellow seamen heard him say “several times [he] wish’d to God Almighty they might meet the Pyrates,” and later in fact did, was confronted with his wish at his trial and found guilty of piracy (*A Full and Exact Account, of the Tryal of all the Pyrates* 1723: 12).

Of course, the artificial pirate press was not an iron-clad way to escape punishment. Courts naturally viewed the common claim of conscription with considerable suspicion, the “*Plea of con-*

straint or force, (in the mouth of every Pirate),” as one prosecutor put it (*Tryals of Thirty-Six Persons* 1723). If a prisoner’s testimony contradicted an accused pirate’s claim that others forced him, this was doubly so. For instance, Peter Hooff, a pirate in Sam Bellamy’s crew, argued at his trial “That the said Bellamy’s Company Swore they would kill him unless he would joyn with them in their Unlawful Designs.” Unfortunately for Hooff, actual prisoners aboard the *Whydah*, such as Thomas Checkley, pointed out to the court that “at that time [Bellamy’s crew] forced no Body to go with them; and said they would take no Body against their Wills.” Commissioners at piracy trials often needed to negotiate conflicting claims like these. This is where the harder evidence of a newspaper ad proved especially helpful to accused pirates claiming to be conscripts. Sadly, Hooff had no such ad. The court found him guilty and sentenced him, along with several others, to “be hanged up by the Neck until you & each of you are Dead; And the Lord have Mercy on your Souls” (*Trials of Eight Persons* 1718: 12, 11, 14).

Even with an ad of force as evidence, however, an accused pirate might not manage to evade conviction. Court officials were weary of “*that Hackney Defense made by every Pirate upon Trial, namely, That he was a forced Man,*” as one advocate general put it, even if less so when such a defense relied on the newspaper ads discussed above (*Tryals of Sixteen Persons* 1726: 14). Joseph Libbey, for instance, who “said he was a forced Man, and was detained by *Low*, and produced an Advertisement of it” was nevertheless convicted of piracy and sentenced to hang (*Tryals of Thirty-Six Persons* 1723). Nevertheless, the pirates’ ploy was sometimes effective. The same court that condemned Libbey acquitted Joseph Swetser whose defense consisted of an advertisement stating that Captain Low had forced him to serve with the pirates. Perhaps Swetser really was a conscript. Or, like many others, he may have simply manipulated the court’s judgment with his ad of force. Even if the pirates’ ploy was only occasionally effective, it operated to at least partially reduce the increased cost of 18th-century piracy brought about by more stringent anti-piracy legislation.

5 Conclusion

The practices of 17th- and 18th-century pirates provide an important glimpse into the typically hidden strategies that criminal organizations use to maximize profits. My analysis of the economics of infamous pirates practices leads to three conclusions.

First, organized criminal enterprises face essentially the same problems of reducing costs and enhancing revenues that legitimate enterprises do. Both forms of enterprise need to limit the costs

of production, invest in reputations and brand names that enhance revenues, and adapt to changes in the legal environment in order to maximize profits. For pirates this meant avoiding violent conflict, publicly displaying brutality and madness, and circumventing new legislation designed to exterminate their criminal behavior. For legitimate enterprises, the specific forms such strategies take of course differ, but the need for strategies accomplish the same basic purposes is no different.

Second, pirates' practices, like everyone else's, have a rational choice explanation at their foundation. The fact that pirates were organized criminals does not alter this. Nor does the fact that pirates' practices were colorful, outlandish, and often entertaining. These features of pirate practice derive from the unique context that late 17th- and early 18th-century pirates operated in rather than any difference in, or dearth of, pirate rationality or self-interest. Eccentric pirate practices were in fact rationally-chosen responses to the conditions pirates confronted in their criminal pursuit of profit. "*Pirational* choice" differs from rational choice only in that it deals with rationally self-interested decision making in the uniquely piratical context.

Finally, if the size of pirate hauls is any indication, the infamous pirate practices considered here clearly succeeded in enhancing the profitability of pirates' criminal enterprise. In the early 18th century, Captain John Bowen's pirate crew, for example, plundered a prize "which yielded them 500 l. per Man." Several years later, Captain Thomas White's crew retired to Madagascar after a marauding expedition, each pirate £1,200 richer from the cruise (Johnson 1726-1728: 480, 485). In 1720, Captain Christopher Condent's crew seized a prize that earned each pirate £3,000. Similarly, in 1721, Captain John Taylor's and Oliver La Bouche's pirate consort earned an astonishing £4,000 for each crewmember from a single attack (Marx 1996: 161, 163). Even the small pirate crew captained by John Evans in 1722 took enough booty to split "nine thousand Pounds among thirty Persons"—or £300 a pirate—in less than six months "on the account" (Johnson 1726-1728: 340). These shares represent the high end of the pirate pay range. But to put them into perspective, consider the high end of the able merchant seaman's annual income during the same period, which was a mere £33 (Davis 1962: 136-137).

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