Imperial Political Economy and Its Discontents in Colonial New York City, 1664-1763

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Abstract

Based on the apparent incongruity between the ideology of liberty within the British Empire and the extensive trade regulations that governed its economic life, this article explores efforts to circumvent the Navigation Acts undertaken in New York or by its citizens between the English conquest and the end of the Seven Years War. It argues that a remarkably wide range of evasive measures were employed, forcing us to re-examine both what it meant to be “loyal” and the functioning of imperial political economy, one influential model of which even provided intellectual justification for extremely subversive behavior. The article demonstrates that licit activities aimed against the Navigation Acts could be highly damaging, while their illicit counterparts might support the spirit, if not the letter, of British imperial policy.

Introduction

Speaking in 1883 on the imperial crisis that led to the breach with the American colonies, historian J.R. Seeley claimed that the fault lay not with a grasping or tyrannical imperial government, but rather with a simple case of faulty judgment: “the misfortune of that system was not that it interfered too much, but that such interference as it admitted was of an invidious kind. It claimed very little, but what it did claim was unjust” (80). In a statement that forms the point of departure for this essay, he went on to claim that the first British Empire “gave unbounded liberty except in one department, that of trade, and in that department it interfered to fine the colonists for the benefit of the home traders” (80). While this picture of “unbounded liberty” may be going a bit far, Seeley was undoubtedly right to highlight the substantial limits on the economic freedom of Britain’s colonists represented by the Navigation Acts, the legal edifice that constituted this “fine.”
For an empire\footnote{This word is capitalized only when referring specifically to the British Empire.} with a sense of self predicated on liberty, such a situation represented a paradox, one made more puzzling by the fact that the Navigation Acts remained in force until 1849. How could “unbounded liberty” and strict regulation be reconciled? Adam Smith thought they could not, which for him proved the intellectual bankruptcy of mercantilism.\footnote{It should be noted that the term “mercantilism” does not appear anywhere in Smith’s writings (Stern and Wennerlind, Introduction 3; A. Smith book 4, ch. 1).} This straw man, which conveys a “deceptively coherent” image of the patchwork of commercial regulations to which it refers, was erected by Smith to argue in favor of free trade (Stern and Wennerlind, Introduction 3). Later historians have shown that (at least partial) reconciliation of freedom and regulation was possible, pointing to the ineffective enforcement of the Acts or to the range of measures employed by colonists to circumvent these restrictions. These measures, which ran the gamut from legitimate efforts to secure the repeal of legislation to smuggling and trading with the enemy, are the focus of this article. It will be argued that, through competing models of imperial political economy, the corruption of greater and lesser officials, and a pragmatism that smoothed the implementation of imperial regulations, evasive activities—even those that might appear subversive or disloyal—were actually supportive of the first British Empire, providing a safety valve for frustrations originating with trading restrictions that was drastically sealed after 1763 (Andrews; Barrow; Koot 122; Truxes; Zahedieh, “Productivity”).

The paradox described by Seeley was felt especially keenly in New York. In the winter of 1733/34, the city’s two newspapers glowed with the heat of political controversy, in which it appeared that nothing less than the ideological foundations of the British Empire were at stake. Arguments for and against Governor William Cosby and his acolytes, which centered on local questions of corruption and abuse of power that had become de rigueur in New York, were nonetheless couched in the loftiest of terms. “It is the Happiness of an Englishman,” wrote a contributor to the New-York Weekly Journal, “that his Property is fenced about with Law and Priviledges [sic], into which no Power can make any Incursion, except it is encouraged by his own Stupidity or Cowardice” (7 Jan. 1733/34). The idea of liberty dominated the political culture of the British Empire from its inception, and whatever else may have divided New Yorkers, they all professed an unswerving devotion to its precepts and claimed membership of a political community that worshipped at liberty’s altar (Mancke; Armitage ch. 5). Indeed, the pathos of grubby political infighting being conducted in the language of such high-minded ideals was too much for one correspondent to the New-York Gazette: “at every Turn, the Support of the Glorious Revolution, Liberty and Property, and Court of Exchequer, are hook’d in by the Head and Shoulders, tho’ never so foreign to the Argument” (11 Feb. 1733/34; emphasis in original).

A more fundamental contradiction than this incongruity confronted the inhabitants of British America, who remained subject to strict trade regulations that were a real and substantial limitation to their economic freedom. At the center of this regulatory framework were the Naviga-
tion Acts, a group of statutes that governed trade in the British Empire from the mid-seventeenth to the mid-nineteenth century. According to the foundational act, passed in 1660 but based on a Commonwealth statute of 1651, all goods carried to and from the colonies were to be conveyed in English or colonial ships; masters and three quarters of the crew were to be “English” (which included American colonists); no tobacco, sugar, indigo, ginger, fustic, or other dye-wood (the so-called “enumerated” commodities, the list of which was changed from time to time) produced in English colonies was to be exported to any place other than England, Ireland, or an English possession; and a wide range of goods, including nearly all of the principal products of the Mediterranean and Baltic (except iron) and all produce of the Russian and Ottoman empires, were to be imported into England, Ireland, or Wales only in English ships or those belonging to the country of origin or first shipment. Foreign goods imported by English-owned and -manned ships were to be brought only from the place of origin or first shipment.3

The purpose of the regulations on the ownership and manning of vessels was to eliminate the Dutch from the English carrying trade; that of those regarding enumerated commodities was both to increase revenue within Britain and to protect trade. To understand colonial attitudes towards these statutes, it is important to distinguish between those duties imposed as a mechanism to regulate trade (which were accepted as legitimate throughout the Empire), and those intended to raise revenue, something that the English / British Parliament could only legitimately implement within Britain (Hulsebosch 91–92; Greene ch. 2; Bailyn 213 n. 55). These goals were furthered by additional legislation passed in 1663 and 1673 that respectively stipulated that (with a handful of exceptions) European goods intended for sale in English colonies should be laden in England or Wales and carried directly to the colonies, and that duties were to be levied on goods sent from one colony to another, to prevent New Englanders in particular from shipping enumerated goods to Europe and undercutting English merchants. This system was codified in 1696, and eighteenth-century modifications were relatively minor; these focused on expanding the range of enumerated goods to include rice, molasses, timber, naval stores, copper, and fur (among others), on restricting the importation of foreign sugar to British colonies, and on curtailing the export of several colonial manufactures, such as hats and finished iron, to Britain (Zahedieh, “Overseas Expansion” 405–07; Zahedieh, “Economy”).

Confronted with this sheer edifice of legislation, New Yorkers and other colonists were industrious in finding ways to circumvent these laws. The 1673 statute itself explicitly blamed “the Inhabitants of diverse of those [American] Colonies […] [who] contrary to the expresse [sic] Letter of the aforesaid Lawes have brought into diverse parts of Europe great quantities [of goods]” (25 Car. II., c. 7, s. 5). Colonial merchants smuggled significant amounts of goods, supported not merely privateer-

3 These statutes were the 1660 Navigation Act (12 Car. II, c. 18), 1663 Staple Act (15 Car. II, c. 7), 25 Car. II, c. 7, and 7 & 8 Will. III, c. 22. See Zahedieh, “Overseas Expansion” 405–07; Beer ch. 12.
Koot argues that the heyday of smuggling between the Netherlands and British America was over by 1713, while Truxes and Klooster point to continuing illicit trade throughout the colonial period. Notwithstanding the lexical and conceptual differences between them, consideration of which is beyond the scope of this essay. But for the American context in particular, see Fischer 1-15.

At least in public, contemporaries agreed that illicit trading constituted “disloyalty,” and the purpose of this essay is to examine that contention by exploring the relationship of imperial ideology and political economy. A common thread running through all variants of British imperial ideology was the commitment to “freedom” (taken here as synonymous with “liberty”); this infinitely malleable concept could be combined with the different schools of imperial political economy to defend apparently disloyal behavior. On the one hand, simple smuggling could, for example, denote both a particularly colonial understanding of imperial prosperity as well as an engagement with a “moral economy” of sorts; other activities, such as piracy or trading with the enemy, are less easy to rehabilitate. On the other hand, less questionable methods of circumventing the navigation system (such as petitioning Parliament or passing colonial legislation antagonistic to metropolitan regulations) were arguably more destructive. The complex relationship of liberty and imperial political economy thus forces us to reconsider both of these sets
of ideas, as well as what it meant to be loyal or disloyal when engaging in licit and illicit trade.

Freedom, Empire, and Political Economy in Britain and America

Ironically, given Britain’s rapidly expanding share in the slave trade after 1700, empire and liberty were fundamentally linked concepts both within metropolitan imperial ideology and in Britain’s colonies themselves (Richardson 440-44; Pettigrew; Wilson 24, 137-205). “In America,” Arthur Young puffed in 1772, “Spain, Portugal and France, have planted despotism; only Britain liberty” (20). Reconciling liberty and empire was difficult, however, and the political theorists of the period arguably never quite managed it. John Trenchard, writing half a century before Young, recognized this difficulty when he reflected on the inevitable desire of prosperous colonies to become independent of the mother country:

[…] there can be but two ways in nature to hinder them from throwing off their dependence; one to keep it out of their power, and the other out of their will. The first must be by force; and the latter by using them well, and keeping them employed in such productions, and making such manufactures, as will support themselves and families comfortably, and procure them wealth too, or at least not prejudice their mother-country. (Trenchard and Gordon 2: 750)

Trade was the crucial means by which to bind liberty and empire together, and emphasizing the supreme importance of commerce in the British Empire remained the most promising strategy for keeping it free. This strategy demanded the redefinition of empire itself as essentially commercial and maritime, a perspective in place by the 1730s at the latest (Armitage 142-44; Wilson 155-57).

It was vital that such an understanding of empire, if it were to have any lasting purchase, was shared by the colonies themselves. And it is abundantly clear from even the most cursory glance at early Hanoverian colonial culture that it was. Newspapers and broadsheets in British America were awash with references to the free, commercial, and maritime nature of the Empire, and commerce could also reinforce empire in more material ways, for example through the commodification of icons of imperial culture, such as the monarchy or military heroes (McConville 119-27; Wilson 140-65). But commerce could serve two masters: the development of a consumer economy in America, it has been argued, was fundamental both to strengthening the links between Britain and her colonies and to severing these ties in the Revolution (Breen, “Empire”; Breen, “Baubles”).

The flexibility of commerce was, however, far outshone by that of “freedom.” The meanings of this polymorphous concept were plastic and multiple, and it pertained to a wide range of different topics, from law

Steve Pincus argues that there was already a lively culture of theorizing about empire in the 1720s in his “Gulliver’s Travels.”

For colonial print examples, see [Rawle] 56; Dummer 40; New-England Weekly Journal 25 June 1733; New-York Evening Post 16 Sep. 1751.
to navigation to religion. Hence its power: it was possible for those who deployed it on any and all sides of an argument to claim, ingenuously, that their position was in defense of liberty (Mancke). A centerpiece of the national self-image, Britons believed themselves (and, for the most part, others believed them) to be uniquely blessed by their possession of a range of freedoms based on the rule of law and manifested in such institutions as Magna Carta, Parliament, and trial by jury (Colley 30–42, 101–45; Newman ch. 7; Langford 267–75). In the streets and the corridors of power, at home and in the colonies, political argument was often conducted with explicit reference to these treasured institutions. As we saw at the start of this essay, New Yorkers were so adept at mobilizing liberty that the chorus in its defense was simultaneously deafening and monotonous. They had begun to sing from this hymn sheet even before the English conquest in 1664, but with the establishment of the Duke of York’s patrimony there emerged a persistent dissonance in provincial politics that survived until the American Revolution: the question of taxation and representation (Jacobs ch. 3; Ritchie 48–50). For example, the first governor, Col. Richard Nicolls, experienced ongoing difficulties with the English communities on Long Island, which, when they were not trying to defect to Connecticut, continually grumbled about demands for taxation from an unrepresentative provincial government. These complaints were muffled after the establishment of a Provincial Assembly in 1683, but they continued in muted form until the Revolution.  

By the 1730s, the language of liberty was shaping New York’s politics, and seemed to inflate practically every political issue into a question of freedom or tyranny. To cite one example, upon arriving in the colony in 1732, Cosby sought to obtain half of the interim governor’s salary, as was customary and stated in Cosby’s instructions. The outgoing interim governor, Rip Van Dam, refused to comply and legal proceedings ensued. Cosby was initially unsure to which court he should submit his suit: a jury trial in New York would probably have been unfairly biased against him, and the matter could not be tried in chancery, as the governor himself was chancellor and would therefore have judged his own case. He consequently sought to establish an equity jurisdiction for the (juryless) Supreme Court, but when the Chief Justice rejected this by throwing out Cosby’s suit, the governor furiously dismissed him from the bench. Cosby was justified in pressing his rights, but his high-handed and tactless behavior aroused extreme political passions, and Van Dam complained in precisely the terms we might expect:

The said Court of Equity is erected without any check or means to controle or prohibit it in case it should take upon it the cognisance of matters purely tryable at law and by jury, whereby the people are subjected as to their rights and liberties to the meer will and pleasure of the Judges of that Court; whom you [Cosby] have taken upon you to place and displace at your meer will and pleasure; and consequently the meer will and pleasures of Governors, is introduced to be the law. (Calendar 40: 259)
Although this was strictly a hypothetical argument, it was serious enough for Cosby to waste no time in attempting a refutation, the charge being, as he thought, “of a very high nature […]. No attempt has been made to overthrow the Common Law or tryall by jurys, nor is there a province in H.M. Dominions where the subject is in fuller enjoyment of all that happiness which we derive from the English Constitution” (Calendar 40: 265; Hulsebosch 59-64).

Such political fundamentalism was encouraged by the mobilization of metropolitan opposition discourse at the hands of the apparently democratic but manifestly populist resistance to Governor Cosby (Middleton 197-210). Indeed, the continual reduction of political issues in the colony to the most basic level—that of liberty and slavery—destabilized the community sufficiently for even murder to be contemplated: an anonymous death threat, probably against Lieutenant Governor Clark, was dropped at Widow Brazier’s coffee house in New York in late 1736. It was endorsed with a single word: “Liberty” (Calendar 42: 275).

Liberty and freedom, trade and empire: however variously flexible and multifaceted these interconnected concepts may have been, what remained constant was their location at the very heart of British politics, culture, and self-perception. It is precisely this circumstance—the invariable commitment to variable ideals—that allowed New Yorkers manifestly to circumvent imperial trade legislation yet be able to claim, with some justification, that they were acting according to the spirit of those very laws.

This seeming paradox relied in large part on disagreements about the nature of imperial political economy within Britain itself. There was consensus behind the principle that “the ordinary means […] to encrease our wealth and treasure is by *Forraign Trade*, wherein we must ever observe this rule; to sell more to strangers yearly than we consume of theirs in value” (Mun 11). This notion of a balance of trade became the leitmotif of early modern economic thought, but there existed significant differences of opinion that developed over the course of the Restoration era, an unusually productive time for economic writers of all stripes. One divide was between those who argued for complete freedom of trade and those who favored protectionist regulation. These differed not least in their view of the Dutch Republic, the pre-eminent mercantile power of the seventeenth century. Those who favored freedom of trade sought to emulate the Dutch, whom they believed to be antagonistic to monopolies and protectionist regulation of any kind (Matson, *Merchants* 38-42; Schama 235-40). Indeed, the key theorist of the “free sea”—the *mare liberum*—was the Dutchman Grotius, who contended that “it is lawful for any nation to go to any other and to trade with it,” and that “the liberty of trading is agreeable to the primary law of nations” (10, 51).

Protectionists sought to combat the Dutch, whose success with fisheries, colonization, and merchant shipping provoked envy sufficient to lead to war between Protestant powers during an era of intense confessional
rivalry. As mentioned above, the Navigation Acts were a direct result of this drive to protect English commerce from the Dutch, and a diverse array of authors worked tirelessly to turn the broad ideological position that was later termed “mercantilism” into economic orthodoxy.5

To a certain extent they were pushing at an open door, as a second debate that cut across the free-trade controversy took as axiomatic the need for economic protection and instead asked, protection from whom? Two candidates stood out: France under Louis XIV and Colbert was emerging as a major competitor, and the Dutch remained a serious threat until their share of world trade began to decline in the second quarter of the eighteenth century. As these two powers threatened British commerce in different ways, a decision to focus on one of these rivals to the exclusion of the other suggests a commitment to one particular model of political economy (De Vries 113-46; Israel chs. 9-10; Ormrod ch. 10; O’Rourke, Prados de la Escosura, and Daudin).

As Steve Pincus has argued, two principal, competing visions of political economy existed in late seventeenth-century England (“Rethinking Mercantilism”). Both of these existed prior to the Glorious Revolution, but the “Tory” model of political economy dominated before 1688. This view was fundamentally agrarian and posited that wealth consisted in land. As land was a finite entity, trade was therefore a zero-sum game, in which one party’s gain was counterbalanced by another’s loss; the trade in agricultural commodities, organized through territorial empire and monopoly companies, was the route to wealth, and any competitor for this trade (“Tory” political economists focused on the Dutch) was to be eliminated as a matter of urgency. The fiscal priority for this group was to shift the tax burden away from land and onto commodities. The Navigation Act, by focusing on recapturing the carrying trade from the Dutch and enforcing a stream of colonial imports to England, was a direct result of this school of economic thought. Indeed, the Speaker of the Commons recommended it for Royal Assent in 1660 with a clear expression of the principles of territorialism and trade as a zero-sum game that defined “Tory” political economy: “it is the only way to enlarge Your Majesty’s Dominions all over the World; for, so long as Your Majesty is Master at Sea, Your Merchants will be welcome where-ever they come; and that is the easiest Way of conquering, and the chiefest Way of making whatever is, theirs: And when it is ours, Your Majesty cannot want it” (Journal of the House of Commons 175; Pincus, 1688 366-99).10

After 1688, however, Whig political economy came to dominate. This view held that wealth could expand potentially without limit, as it was based on manufactures rather than land; consequently, trade did not involve one’s enrichment on the basis of another’s impoverishment, meaning that all could benefit. Manufactures require manufacturers, so Whig political economy called for a larger population, or “hands not lands”; they also require markets, so the most dangerous foreign competitor was Louis XIV’s France, which threatened not merely to outstrip
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Examples of the “Whig” school include Reynell; Cary; and Gee.

As late as 1720, the governor reported to London that New York had no manufactures “that deserved mentioning” (Calendar 39: 59).

Britain’s production of manufactured goods (something the Dutch Republic, with a small population and limited natural resources, could not do), but also to close off lucrative markets through its military domination of the European continent. The fiscal priority for Whig politicians was to tax land and to protect and relieve manufacturers by making exports easy and imports expensive (Pincus, “Rethinking Mercantilism”; Armitage 146–69).

Both models co-existed throughout this period, and while the Tory vision dominated before the Glorious Revolution and the Whig thereafter, neither managed to extinguish the other. (Otherwise, the continued existence of the Navigation Acts until the mid-nineteenth century would be inexplicable.) Neither was an entirely self-contained, coherent set of political economic principles, and there was much overlap both in tenets and personnel. They both exercised significant influence outside Britain, but this influence—as well as the group of those influenced—was far less clear-cut outside Britain than within. To give one example, a brief printed exchange on the topic of customs and excise duties took place in New York in 1726. The first pamphlet to appear argued in accordance with Tory political economy that the burden of taxation should be laid on goods rather than land; such taxation could be progressive by taxing only luxury commodities or those likely to encourage vice. Its argument against a land tax was tied to colonial circumstances: unlike in Britain, such a tax would not burden wealthy landowners but the very farmers whose produce was so essential for trade, as colonial landowners tended to be owner-proprietors. In response, The Interest of City and Country to Lay No Duties argued in favor of the Whig school, calling for a general tax on men’s estates, with peer assessment of wealth so as not to allow those with liquid fortunes to escape a fair reckoning. Despite seeming to conform to Tory and Whig schools of political economy, such a neat division is frustrated largely by the fact that both pamphlets probably came from the same pen, that of Cadwallader Colden, New York’s Scottish surveyor-general. Indeed, Colden’s generally Tory outlook was shared by his political allies, who nevertheless borrowed heavily from metropolitan Opposition Whig rhetoric in their fight against Cosby and his mercantile acolytes ([Colden], Interest of the Country; [Colden], Interest of City; [Colden], “Second Party”; Nash 87–92).

Other factors prevented a straightforward transposition of metropolitan ideas to the colony. On the one hand, the produce of colonial New York was profoundly agricultural, based on flour, furs, whale oil, and other natural commodities; there was, therefore, little scope for the development of a Whig political economy that centered on manufacturing.¹² This was doubly so given that following the dictates of this school of thought in Britain after 1688 entailed the severe restriction of colonial manufactures in favor of those of the mother country. On the other hand, landed property retained its cachet and remained the desideratum, even for those who made their fortunes almost entirely
from mercantile enterprise. With large tracts of land up for grabs in British America, it was understandable that the choice between Whig and Tory political economy that seemed discrete in Britain was less so when these ideas were transposed to a colonial context. What might appear in the mother country to be mutually exclusive forms of political economy could, in the colonies, become a range of different positions from which individuals might choose, dependent on time, place, and inclination. This very inability to apply metropolitan configurations of political economy unproblematically to a colonial setting is itself suggestive of the broader complex that this essay seeks to illuminate.

Licit Opposition

One aspect of the complicated engagement of New Yorkers with imperial political economy was the effort made to gain exemptions or change laws by perfectly licit means. Direct petitions to the Crown, to the Lords of Trade and Plantations, or to Parliament were made on several occasions, as were interventions in London from an agent or agents appointed to represent the colony. Within New York itself, the Assembly passed, or refrained from passing, measures that had a direct bearing on trading relationships, revenue, and political economy across the British imperial world. Colonial legislation was almost always confirmed or disallowed in England—although the exceptions to this rule are telling—and this tied London and New York closer together. But the most important factor for colonial legislation, as indeed for the fortunes of the customs establishment that sought to enforce the Navigation Acts, was the political climate of the colony itself (Barrow 66–68).

As soon as New Amsterdam surrendered in 1664, efforts to obtain exemptions from the Navigation Act were openly made and were granted as necessary measures. Under the Articles of Surrender, exemption from the restrictions of the Navigation Acts was granted to the inhabitants of New York for a period of six months. Furthermore, free trade with the Netherlands appeared to be granted in perpetuity by the sixth of the Articles. These were necessarily generous given the English need to obtain and secure their new territory with barely 300 men; Nicolls simply could not afford to alienate a population upon whose quiescence he relied. At the same time, however, it made little sense to continue to allow the Dutch to trade freely with New York, the capture of which was largely motivated by the need to consolidate the English colonies in America in defense of the Navigation Acts. Nicolls responded to this challenge with a pragmatism characteristic of Britain’s treatment of America before the Seven Years War: he readily granted exemptions from English trading restrictions while denying the right to continued free trade with the Dutch Republic beyond the six months stipulated in the Articles. He apparently felt so secure in doing this that he even discharged several English soldiers around the same time. With the survival of the newly acquired
territory at stake, pragmatism trumped principle, and London—recognizing both the need for New York to trade in order to survive and the inability of English vessels to meet this immediate need—was prepared to acquiesce (O’Callaghan, Documents 2: 250-53, 3: 43-50; Jacobs 99-101; Ritchie 21-23, 56-59; “Colonial Records” 122-23, 129-30, 133-34).

But Dutch New Yorkers held onto the promise of the sixth article, and deployed arguments based on its guarantees when they approached imperial authorities directly to ask for the continued suspension of trading restrictions. Director-General Pieter Stuyvesant, the last governor of New Netherland, himself appealed to the Duke of York and to the Crown in two separate petitions of 1667, in both of which he relied heavily on the sixth article to make the case for suspension. After consideration, the Crown was sympathetic to New York’s needs, and permission was granted for three vessels per annum to trade directly with the Netherlands for a period of seven years. However, the principle of continued free trade was not conceded and was deliberately ignored by several English merchants, who successfully lobbied for the revocation of this permission the following year. Exemptions continued to be granted, for example to two Scottish ships in 1669, which, it was hoped, would encourage settlement in the colony. But by the mid-1670s, even tentative requests to exempt traders from the Navigation Acts, or simply to make the application of the Acts less strict, met with a firm rebuff from the authorities in London (O’Callaghan, Documents 3: 163-67, 177-78, 180-82, 236; Calendar 7: 13-14, 16-17; Ritchie 56-59).

Other measures to circumvent trading restrictions legally were therefore pursued. These developed as the place of both New York and Parliament within the British Empire changed. With the Duke of York’s accession to the throne as James II in 1685, the colony became a Crown proprietary, and while this remained technically unchanged after the 1688 Revolution, the role of the King-in-Parliament was henceforth important. Colonists continued to petition the Lords of Trade and Plantations, but shifted from addressing the Crown to dealing with Parliament. The range of legislation this produced to regulate colonial trade became increasingly broad after 1689, and the American colonies felt it opportune to appoint agents to represent their interests in London (Calendar 14: 594-95, 15: 78-79, 300). New York’s Assembly initially sent agents to England in the 1690s to ensure that the financial burden of war in America was shared by other colonies (New York’s extended frontier and proximity to Canada placed it on the front line in the colonial theater in every war up to 1814) (Taylor 132, 199). But New York’s agents soon began to deal with broader social and economic issues, such as the need for labor in the colony: they responded warmly, for example, to proposals made in the summer of 1696 to send female convicts to the province as indentured laborers (Calendar 15: 559).

Commercial matters came to form the bulk of the issues with which the colony’s later agents had to deal. Much of their time was spent in
combatting the efforts of British or other colonial merchants to secure legislation that would be disadvantageous to the colony. In early 1733, for example, New York’s agent, Richard Partridge, protested against the Molasses Bill then proceeding through Parliament. This measure addressed the concerns of British sugar producers in the Caribbean by introducing prohibitive duties on the import of foreign sugar by the northern colonies. His letter bore all the hallmarks of Whig Opposition rhetoric and New York’s histrionic political idiom. Partridge claimed that the bill was
divesting them [i.e., New Yorkers] of their rights and priviledges as ye King’s natural born subjects and English men in levying subsidies upon them against their consent when they are annexed to no county in Great Britain, have no Representatives in Parliament nor any part of ye Legislature of this Kingdom, and that it will be drawn into a precedent hereafter whereby an incredible inconvenience may ensue. (Calendar 40: 66)

This prescient but speculative argument, even when combined with the complaints of other northern colonies and favorable testimony from the likes of Captain Fayrer Hall (which was excerpted and reprinted at length in the New-York Gazette), failed to prevent the bill from becoming law (17, 24, 31 July, 7, 14, 21 Aug. 1732). But pragmatism again reigned, as the force of this statute was diluted by its weak enforcement (6 Geo II, c. 13; Journal of the House of Lords 227, 243; Steele 115-16).

This did not satisfy metropolitan merchants and British sugar planters, however, and they renewed the fight after the wars of 1739-48. In October 1750, a group of London merchants submitted a request to the Lords of Trade and Plantations for a blanket prohibition on the trade in foreign sugar conducted by the northern colonies. New York’s agent, Robert Charles, attended the Board himself in December and vigorously opposed this suggestion in terms consistent with solid Whig political economy: he “looked upon [this idea] as a monopoly prejudicial to Great Britain and destructive of the birthright of the people of North America” (Journal of the Commissioners 9: 138). The rhetorical ante was upped rather dramatically the following March, when the merchants and planters countered with a histrionic petition submitted to the Commons. This claimed that Britain’s wealth was being “ravished from her by the Intrigues of Foreigners, and the Treachery of her own Subjects,” namely the “Northern Colonies [who] are [...] the Agents of France and other foreign Nations” (Journal of the House of Commons 26: 108). Nor was this entirely special pleading, since New York’s own governor claimed in 1752 that “Holland and Hamburgh receive more benefit from the Trade to the Northern Colonies, than Great Brittain does” (George Clinton to Board of Trade, 4 Oct. 1752 in O’Callaghan, Documents 6: 766; Barrow 153). Despite such apparently high stakes—monopolies, destroyed birthright, and treachery—both Parliament and the Board of Trade proceeded slowly, until both sides reached an agreement to renew the Molasses Act for a year before the issue was rendered null by the out-
break of the Seven Years War. Charles stayed in close contact with the Assembly in New York throughout, forwarding news and information and receiving instructions. Direct petitioning and the placement of a colonial agent at the Empire’s legislative and executive heart were clearly tactics used by New York and its wealthier inhabitants as a means of negotiating imperial political economy. The exemptions and privileges granted were often a result of simple pragmatism or the “salutary neglect” that suited all parties by nominally enacting legislation but refraining from executing it. Insofar as these measures were temporary or emergency exceptions, or were part of a consistent but only loosely enforced legal code, they did not necessarily undermine the Empire’s political economy. However, it was arguably the case that some “licit” means used to modify regulations did exactly that (Henretta).

The best example of this is legislation passed by New York’s Assembly. In October 1732, it sent a bill, which supplied revenue for the province partly by imposing a duty on the import of slaves, to the legislative council for its assent. The bill passed without amendment and was enacted and sent to London for approval. By imposing a duty on goods imported in British vessels, this bill directly contravened not only the principle of Britain’s commercial primacy (as encapsulated by the Navigation Acts) but also statute law and one of Cosby’s instructions, “forbidding the imposition of any duties on British shipping or product[s]” (7 & 8 Will. III, c. 22; O’Callaghan, Documents 5: 934). While the legislators were unaware of the specifics of Cosby’s instructions, it was clear from the charter of 1664, granting New Netherland to the Duke of York, that the inhabitants of the province had to adhere to English trade regulations, and they would certainly have known that this law was scarcely in keeping with the drift of commercial legislation emanating from Britain. Only six weeks earlier, details of London’s latest restriction to colonial trade—forbidding the export of hats from the colonies—had been published in the New-York Gazette (21 Aug. 1732; Colonial Laws 2: 768-87; Journal of the Legislative Council 1: 622-26; Katz ch. 6; [Van Dam]; Hulsebosch 43-45).

Why Cosby, who not only assented to the bill but was (improperly) present during all stages of its perusal by the legislative council, permitted the measure to pass without comment is unclear; what is certain, however, is the reaction of British traders to this measure. In their petition, a group of Bristol merchants unsurprisingly argued that it was highly subversive: they described the Act as “very prejudicial” and “highly detrimental,” not only to themselves but to “the trade and navigation of these Kingdoms” (Calendar 41: 278-79). The authorities agreed, but they again tempered their disapproval with a substantial dose of pragmatism. Ordinarily the Lords of Trade and Plantations would have recommended that the Act be disallowed, but this was a revenue measure, and they foresaw difficulties with financing the colonial

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13 The issue was still being discussed into early 1756 (Journal of the Commissioners 9: 103, 229; Journal of the House of Commons 26: 103, 229; Varga; letters from Charles to Jones of 12 Nov. 1750, 6 Feb., 12 Mar. 1750/51, 30 May, 29 July 1751, 11 June 1753, 17 Jan., 27 Feb. 1756, and from Jones to Charles of 11 Nov. 1751, 2 Mar. 1753).

14 For equivalent petitions complaining about Jamaican and South Carolinian duties on slaves, see Minchinton 37-39, 42-43.
government if it was disallowed in London without a replacement. They therefore recommended that the law be allowed to lapse in due course (1737), while drafting strongly worded further instructions to Cosby to obtain another revenue measure and to repeal this Act (O’Callaghan, Documents 6: 32-34, 40; Acts 3: 422-24; Journal of the Commissioners 7: 6, 32, 34, 41, 44, 51).

The Assembly had engaged in a form of licit opposition to imperial political economy by legally enacting a measure that was designed to raise revenue and support the provincial government, but which contravened one of the cardinal principles of the navigation system: the primacy of the mother country. Its short life on the statute book could not hide the fact that this colonial law spelt danger, not necessarily because imperial legislative institutions were at odds with imperial political economy, but rather because their confrontation highlighted the impotence of the colonial legislatures and London’s pragmatic yet arbitrary policy.

Illicit Opposition: Smuggling, Piracy, and Trading with the Enemy

At times, it must have seemed that New Yorkers were scarcely capable of trading legally, so extensive was illicit commerce in the port. Smuggling had been widely practiced since the first days of Dutch rule over the colony, which had become a haven for pirates and those who traded with the enemy, whether during war or peace. “Can it be unknown to you,” fulminated “A Fair Trader” in 1748, “that scarce a Week passes without an illicit Trader’s going out or coming into this Port[?] …] Surely if any unprejudiced Strangers are among us, they must be very charitable, not to think us the most disloyal People to the best of Kings, and inveterate Destroyers of the best of Constitutions” (New-York Gazette, or, the Weekly Post-Boy 6 June 1748; emphasis added). The “Fair Trader” was not alone, as practically every governor of the colony complained to London about the existence and extent of illegal trading (O’Callaghan, Documents 3: 382, 814, 4: 791, 793, 1079, 5: 58, 159, 300, 497, 6: 756, 7: 226, 271-72, 548, 584, 666, 8: 487; Minutes 1: 194-95).

The sheer variety of methods by which traders cheated their governments of revenue is breathtaking. Entering under cover of night, unloading goods, and sailing away before dawn was the boldest and most risky of these, but also comparatively rare. More frequent was partial or complete unloading at a neighboring port, such as Perth Amboy in New Jersey, where duties were lower and officials more corrupt, and where there were fewer informers swarming on the quayside. More frequent still was the simple misreporting of cargo in terms of quantity and origin. Some ships might illegally bypass Great Britain altogether when plying between New York and Continental Europe; more would stop at a smaller outpost, such as Dover or Falmouth, where customs officials were more corruptible or less fastidious. (In one reported mid-seventeenth-century
case, a Dutch vessel cleared at Dover to continue to New York, carrying a cargo of bricks as ballast, on which duty was paid but which was not unloaded as legally required. Only once the vessel had run aground did it emerge that hidden under the bricks was a great quantity of guns and other goods both prohibited and dutiable.) Once at an outport, captains might pay duty only on only a fraction of their wares and secure the necessary documentation to ensure the legality of their voyage. Some captains and merchants produced duplicate manifests, one fake to produce when the opportunity arose and one genuine in case of need. During wartime, it was possible to trade with the enemy under “flags of truce,” a mechanism designed to allow colonies to commission vessels to exchange prisoners, but which merchants used to create opportunities to exchange goods. This list is by no means exhaustive, and new methods of illegal trade were continually being invented (Watts 31–32; O’Callaghan, *Documents* 3: 356; *Beekman* 1: 189, 210, 413; Danckaerts 36; Hayne 15; *Barnaby’s Travels* 118, 128, 129 n.; Colden, *Letter Books* 1: 259; Truxes).

Almost as innovative were the reasons, enumerated by Cathy Matson, that traders devised to justify this activity (*Merchants* 83–87, 203–14). The most perfunctory justifications were the claim that smuggling, like piracy, could sidestep persistent currency shortages (indeed, much illegal trade took place with French and Spanish territories in the Caribbean, in which specie was more abundant), or an appeal to the economic virtue of reducing costs and maximizing profits. Smuggling also promised a quick turnaround time in ports, resulting in smaller costs for wharfage, crew wages, or a vessel’s charter. Illegal traders also took advantage of the belief that merchants could benefit more from open than from regulated trade: a belief that, as we have seen, owed much to metropolitan economic debates. Also particularly redolent of Whig political economy was the argument that the prosperity of merchants would benefit all the inhabitants of the colony. Beyond simple self-interest, therefore, there was a number of possible defenses of illegal trading activity that amounted to a “moral economy” of sorts that worked against imperial trade regulations. The authorities, cheated of revenue and faced with contempt for established law, never saw it this way, and lax enforcement of the Navigation Acts owed more to the corruption and inefficiency of the customs service than to sympathy with a smuggler’s “moral economy” (W. Smith 1: 332–33; McLellan 35–36, 50, 56–57; *Beekman* 1: 146).

This is not to say that several members of the governing elite did not participate in this illicit bonanza—quite the reverse. But servants of the Crown could have no recourse to this range of arguments to justify illegal activity. For most of these, complicity was a matter of self-interest, never principle, no matter what their private feelings may have been. Some of the worst offenders were those directly responsible for defending the Navigation Acts, the Collectors of Customs themselves. Most notorious were Lucas Santen and Chidley Brooke, who ran New York’s customs establishment for eight of the twelve years between 1683 and

15 For general accounts of smuggling techniques, see Matson, *Merchants* 83–87, 203–14; Koot 151–78; Klooster. A rough measure of the outport trade can be obtained from customs figures: in 1713, for example, the trade in goods produced and consumed by Great Britain was between two and three times as large in London as in the outports, whereas that in goods passing through Britain to or from the colonies was almost the same, suggesting proportionally a much larger share of this trade in the outports than the capital (Board of Customs fos. 26, 70, 97, 123, 149, 180, 196, 205).

16 This phrase is, of course, borrowed from E. P. Thompson’s classic essay.
1695. Between them, they were accused of massive corruption; of violating the Royal African Company’s monopoly; of allowing goods to enter the colony without paying duty; of embezzling quitrents, customs dues, and excise; of extending credit to those who owed customs; of securing the release of ships and goods that were to be forfeited under the Navigation Acts; of procuring the arrest of customs officials in other colonies for performing their duty; of unduly delaying the seizure of offending vessels to allow their illegal cargo to be landed; of allowing known and suspected pirates to move freely; and so on. They were both removed from their positions, but not before serious damage had been inflicted on the government’s efforts to secure the customs system, and thereby revenue. Indeed, some customs officials may have participated in illegal activity because this was quite simply the only way to obtain at least some revenue, given the impossibility of rigidly enforcing the navigation system with a handful of paid officials, along a vast coastline, and in the face of local opposition. This opposition was most active against the most conscientious customs officials, such as William Dyre (Collector, 1674-81). Dyre was arrested and sent to England to be prosecuted under no less a charge than high treason, merely for continuing to exact customs after the governor, Edmund Andros, had been recalled without remembering to renew Dyre’s warrant (Werner 179; O’Callaghan, Documents 3: 318-21, 495-500, 4: 354-58; Calendar 16: 472, 501, 561, 593, 623, 835; Ritchie 103-04, 156-60; Rabushka 212-13, 401-07; Barrow 128, 130, 144).

Corruption did not stop with the customs establishment; it went all the way to the top, and it is not difficult to see why. New York’s establishment was chronically underfunded, and more than one governor ploughed a substantial portion of their own fortune into keeping it afloat. Richard Coote, Lord Bellomont (Governor, 1698-99, 1700-01), was perhaps only half joking in 1698 when he told the Lords of Trade that he could easily solve his and the colony’s financial problems if he engaged in illegal trade. Several of his predecessors and successors were more active in this regard, although undoubtedly from less high-minded motives. Edmund Andros (Governor, 1678-81, 1688) was accused by the somewhat dyspeptic observer Jasper Danckaerts of favoritism and corruption by abusing his power to introduce profitable prohibitions and monopolies. He was recalled, and these accusations were investigated before he was eventually acquitted. Far more blatant were the activities of Benjamin Fletcher (Governor, 1692-98), who was charged with a cornucopia of offences, from political partiality and voter intimidation to extortion, taking bribes, and extensive violation of customs regulations. Bellomont, his more conscientious immediate successor, complained that Fletcher’s influence had been so corrosive “that on a small seizure I ordered to be made, just after my arrival here on some East India goods imported in an unfree bottome, the whole city seem’d to be in an uproar, and lookt on it as a violent seizing of their property” (O’Callaghan, Documents 3: 221-24, 306-11, 318; Ritchie 48-53, 186-90; Collections 1 [1868]:
The possibilities for widespread and systematic corruption were necessarily limited to the economic and political elites, men like Frederick Philipse (reputedly the richest man in New York and deeply implicated in piracy) or Stephanus van Cortlandt, who alone had the means by which to exploit these opportunities. Choosing not to do so was arguably a demonstration of the integrity of an individual or the legitimacy of an administration. When the government of Jacob Leisler—as well as the man himself—was fighting for its life, much was made of Leisler’s patriotism and proper procedure in equipping privateers to seize French vessels and in disposing of prizes according to established custom, including reserving a share for the King (Collections 1: 321–31; Reich 103 n. 105; McCormick 279–80, 287; O’Callaghan, Documentary 2: 291–99). In contrast, the corruption and possible treachery of Governor Cosby was thought to be laid bare by his decision to allow a French vessel, Le Cæsar, to provision in New York in 1733. Rumors circulated that Cosby was engaged in illicit trading with the vessel, and his opponents vociferously attacked him for giving the French the opportunity to gauge the defenses and approaches to the city. The New-York Weekly Journal repeatedly castigated Cosby, even publishing affidavits to show that the pretended justification for accommodating Le Cæsar (a severe food shortage on Cape Breton Island) was false; this particular issue was amongst those ordered to be burnt by the public hangman, an act that led to the famous Zenger trial of 1735 (10, 17 Dec. 1733; O’Callaghan, Documents 5: 958, 961–62; Calendar 16: 108, 40: 255, 260, 262, 266–67, 269; Katz 82–83, 96–98).

But unlike licit activities, which were generally limited to the purview of the political and economic elites, a much broader range of participants could be involved in illicit measures. Many middling or lower merchants and artisans, for example, invested in shares in mercantile shipping, hoping for a good return from ventures legal or illegal. In addition, merchants of any rank could refuse to pay customs dues, an act that had potentially explosive political consequences. We have already seen how Dyre, a committed customs inspector, was sent back to England under taint of high treason once his mercantile enemies had an excuse not to pay. And one of the first signs that the government of Lieutenant Governor Francis Nicholson (later to be replaced by Leisler) had lost its legitimacy was the refusal of merchants to pay their customs dues. Here, perhaps, the boundary between “licit” and “illicit” breaks down, for Nicholson’s regime was, by the summer of 1689, merely a de facto government that had lost its legitimacy as a consequence of James II’s deposition. This refusal to pay taxes to an illegal government seems to have been not only justifiable but also a crucial step in its overthrow. However, the contemporary English law of treason demanded loyalty to a de facto rather than de jure ruler. In Britain, where William and Mary
were now de facto rulers, the situation was straightforward, but it was otherwise in New York. What is clear is the fact that customs evasion was dangerously destabilizing and disconcertingly democratic (Matson, *Merchants* 84-85; Koot 166; Ritchie 200-01).  

It is less easy to put a positive construction on other illicit measures that were open to non-elites. Several governors complained that it was difficult to convict smugglers in New York’s common law courts, where judgments were delivered by (sometimes packed) juries that almost invariably found for the defendant. Prosecutions could also be frustrated by the intimidation of witnesses, either from individuals or at the hands of the mob. Unruly crowds frequently interrupted customs officers in their duties or prevented the execution of the law. And, thanks in part to protection and connivance at the gubernatorial level, common sailors could and did engage in piracy. Several pirates from New York, such as Edward Taylor, were of a lower and middling rank, but they and others, such as Adam Baldridge or Edward Buckmaster, made substantial fortunes. The high-water mark for piracy in New York was the 1690s, when Fletcher befriended and protected a number of pirates in return for a share in the spoils. He reputedly rode through New York City in his carriage with several pirates, and when a promise of £700 in protection money could not be fulfilled because a pirate crew had dispersed, they surrendered their vessel, which Fletcher then sold. The profits of piracy flowed through the city, sweeping its citizens high and low, from lawyers to carters, along with it. Hence the hostility to vigorous efforts, such as Bellomont’s, to clean up New York (Peyster vii; Calendar 16: 228, 282, 302, 450, 45: 251; O’Callaghan, *Documents* 3: 493, 4: 307; *Books* 277, 344, 373-74; Burrows and Wallace 105-07, 119-26, 168-72; Hamlin and Baker 1: 365-66; *Collections* 39 [1885]: 582-83, 43 [1910]: 7, 84, 127, 157, 187, 233, 251, 254).

Trading with the enemy was another activity that was open to a wide range of participants. It differed from smuggling only insofar as transactions took place during wartime; the venues for such trade (predominantly in the Caribbean, but sometimes directly with Canada, especially early in the Seven Years War) and the identities of those who engaged in it remained largely the same. Although trading with the enemy was certainly illegal, war did not always entail the cessation of commerce, and it could even arguably serve strategic ends. Encouraging an enemy’s traders to circumvent their own blockade, for example, would undermine its effectiveness. Indeed, if one held a Tory view of political economy as a zero-sum game, trading on terms advantageous to oneself would necessarily disadvantage both your competitors and trading partners. Could New Yorkers trading with the enemy have been thinking in these terms? “A Merchant of London,” writing in 1760, certainly was: he asked “whether there can be a more effectual method of destroying the French in the island of Hispaniola, than thus buying their commodities at so low a price[?]” (14). The enormous profit margins—of between 50 and

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17 English treason law up to 1795 was governed by 25 Edw. III, st. 5, c. 2 and 11 Hen. VII, c. 1 (Blackstone 4: 74-78).
100 per cent—available for purchasers of French sugar under flags of truce, he argued, served to fund the war effort and defeat the French. Notwithstanding this argument, it remained the case that trading with the enemy was most often viewed with abhorrence and as treason, a view that had statutory backing in New York after 1755. But the complexities of political economy made it at least conceivable that commerce with an enemy could defend, rather than subvert, the empire and the political economy on which it depended (“Merchant of London”; Truxes 48–51, 57–58, 105–11; Colonial Laws 3: 1121–24, 1139–41; New-York Mercury 12 Apr. 1756; Watts 27; Colden, Letters 5: 330–31).

Conclusion

New Yorkers have always been global in their outlook and vigorously pursued economic opportunities wherever they found them. Membership of the British Empire from 1664 brought tremendous benefits for the fur trappers, farmers, and merchants of the colony, from access to large markets in both hemispheres to the protection of the Royal Navy. But all this came at a price and, for many, the constraints of the navigation system (which became increasingly rigid over the later seventeenth century) made this price too steep. New Yorkers sought to circumvent, by fair means or foul, the extensive and expanding array of laws and regulations that stood between them and increased profits. In this they were emboldened by the seemingly infinite flexibility of the concept and rhetoric of liberty; as the central pillar of British imperial ideology, this idea enabled New Yorkers not unreasonably to claim that their evasion of metropolitan trade regulations was loyal to a higher ideal than the enactments of a parliament in which they enjoyed no representation. The crisscrossed debates on political economy came to their aid, as a faint but distinct “free trade” counterpoint to the prevailing protectionist melody could be heard by colonists on the other side of the Atlantic.

As we have seen, protectionism came in two forms. The Tory variant supported the enumeration clauses in the Navigation Acts and saw trade as a zero-sum game so fiercely competitive that trading with the enemy could be a means of waging war. The Whig variant sought to encourage manufactures and promote commerce, and thus supported the shipping restrictions of the navigation system without going so far as to advocate free trade. In both schools, Great Britain’s interests incontrovertibly came first.

This is where colonists repeatedly begged to differ. But how far did their activities justify the accusations of disloyalty leveled at them by desperate governors and incandescent correspondents? The political and economic elites employed an array of licit tactics, including petitioning, the use of agents in London, and the passage of legislation in the colonies, to try to circumvent trading restrictions (which could mean imposing restrictions of their own) (“New York in America”). These measures
were fundamentally conservative, their framers preferring to nibble at parts of the system, to poke small holes in it, or to contain any possible expansion rather than to compass its wholesale destruction.

By contrast, those engaged in illicit practices ignored or contemptu-
ously cast aside imperial regulations in pursuit of self-interest. But we should not hastily conclude that the distinction between “licit” and “il-
licit” maps straightforwardly onto that between more and less “loyal.”
For one thing, the constituency of New Yorkers engaged in illicit prac-
tices was far broader than the elites who could afford more respectable means of attaining their goals. Indeed, the activities encompassed by the terms “smuggling,” “piracy,” and “trading with the enemy” were almost as diverse as the socio-economic status of those who indulged in them. Related to this is the fact that the legal yet frequently unsuccessful ef-
forts of the smaller group of elites highlighted the power differential between London and the colonies. It was these activities, far more than the low-level, illegal practices of the majority, that held most danger for the future of Britain’s imperial order. In addition, even piracy and trading with the enemy, the most blatant rejections of the regulatory framework, could arguably be rehabilitated: piracy because its self-inter-
ested anarchy attacked indiscriminately (and was therefore beholden to no system, rather than opposed to one in particular), and trading with the enemy because of its possible use as a means of economic warfare.

Ultimately, therefore, efforts to circumvent Britain’s imperial politi-
cal economy were too complex, varied, and enmeshed with the Empire’s ideological foundations to enable us to agree that those trading outside the proper channels were actually “disloyal.” The frequent use of such labels in Britain to describe New York traders demonstrates that the colonists’ sophisticated engagement with the navigation system was never fully understood by metropolitan officials. Had this not been the case, not only would the colonial resistance to using the navigation system to collect revenue after 1763 have been more comprehensible; quite possibly, this innovation would have gone unattempted.

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