

Signature Page

Complex Relationships: The State, Privateers, & Organized

Crime

By
Rhonda Longard

A Thesis Submitted to
Saint Mary's University, Halifax, Nova Scotia
in Partial Fulfillment of the Requirements for
the Degree of Honours Criminology.

April 25, 2019, Halifax, Nova Scotia

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Abstract

The purpose of this research is to examine the history and nature of privateers during the 17th through the 19th centuries with the aim in answering this question: Using contemporary definitions, can the business of privateering can be categorized as organized crime? Privateering has long been considered, not only a legal course of reprisal for wartime losses, but also a heroic action that was celebrated, at least on the side of the privateer. The reality is more complex. In order to explain why privateers were employed despite the harm they perpetrated throughout the Maritimes during the seventeenth to nineteenth centuries, this paper incorporates a blend of sociology, criminology, Atlantic Canadian history, and political economy to show the connection between privateering and organized crime. It draws on a combination of sources to gather data on the complex history and nature of privateering. It also applies a combination of definitions to show that this class of mercenary/merchant marine were not only necessary in establishing the interests of foreign powers in Canada, but were also instrumental in the foundation and development of the early government in the Maritimes; shaping the course Canada would rise to or take in the coming two centuries. Finally, Stephen Schneider's 23-point comprehensive taxonomy of the characteristics of an organized crime conspiracy is applied, along with the historical and contemporary evidence to point to a classification of privateering as organized crime.

April 25, 2019

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Legend

- OC Organized Crime
- OCC Organized Criminal Conspiracy
- OCG Organized Criminal Group

Introduction

What Constitutes OC & Issues Surrounding an Exact Definition

This research began with a simple question: Can privateers be considered organized criminals and can privateering be considered organized crime? Researching the history of privateering in a linear and straightforward manner does not translate into telling their story in a linear and straightforward manner. This is because there are additional factors that complicate the issue. A major question being, if privateering was legal, and even celebrated, then why did its practice decline before being abolished in the 19th century? This paper seeks an answer to that question. First, in order to classify if the privateer is an organized criminal, and further, if that station is considered organized crime, then the conditions and reasoning behind why it did not evolve along with modern world markets and the nation-states that would have eventually employed them, needed to be known, as two great world wars were fought not long after privateering was abolished. One could argue that global economic growth and the co-operation needed to regulate it forced nations to abandon the practice, and that makes sense, but there are two other reasons that fit. One, France lost their hold in the Americas (Vachon, 1985, p. 130). Imperialist ambitions stopped cold on the Plains of Abraham (Vachon, 1985, p. 135), and this may have contributed to declined need for Privateers. Two, Britain began seriously colonizing and fortifying North America, which led to them being dominant in shipping which would have further lessened the need for Privateers. With a permanent base in North America merchants could concentrate on growing a domestic economy that complimented Britain instead of merely feeding into it (Vachon, 1985, p. 169). These ideas have served as the background for this research as a major consideration is the need to know why, if privateering was not only legal, in the barest sense of the term, but also morally justifiable, was the practice abolished at all? This is especially

concerning as, during the early years of colonization, many wars between European powers over land and resources in Canada (New France), and other wars all provided a theatre of battle for the privateer, whose profession depended, and thrived upon conflict.

Research Limitations & Defining the Role of Privateer

One of the main problems with conducting this type of research is the complicated and changing nature of the role of the privateer. From the buccaneers to the well-regulated privateers during the War of 1812, the privateer maintained certain characteristics. In all time periods he was a private citizen, usually a merchant, who was sanctioned under a Letter of Marque to sail with the express intention of recouping economic wartime losses from an enemy of the state (Conlin, 1998, p. 79). The privateer's role changed in relation to the monarchy's imperialist ambition, and colonialist ambition. It was also affected by the changing economy in wartime, and societal factors. Another danger comes in looking back through the lens of our vastly different political system, of being aware that historical retrospect, when looking that far back into the past, can cloud judgement. Knowing this enhances the need to contextualize that time and culture, even if they may not be fully understood.

In addition, it is important to also be mindful of how abstract concepts like crime and harm fit the definition of privateer, and how the possibility of a connection to state crime also affected classification of the privateer's role as legitimate, or not.

Definitions of OC

Organized crime is a term that nearly everyone has heard of but is difficult to conceptualize. There are as many definitions of organized crime as there are organizations studying it. Some of them compete with one another, and some of them even contradict one another (Schneider, 2017, p. 46). Why? Part of the reason is that there is no all-encompassing

definition of organized crime, and also part of the reason is that no universally agreed upon set of characteristics exist that will accurately describe this phenomenon (Schneider, 2017, p. 34). This again is broken down into segments. One, the concept of organized crime is complex and amorphous, constantly changing from place to place, culture to culture, and circumstance to circumstance, or what we call: a social construct. Two, it escapes a comprehensive description because the very description itself becomes a tool of the one who conceives it, and that definition can then become the backbone of policy and law enacted to fight against it. Added to this is the fact that there is very little agreement regarding what constitutes “organized”. Whether we define it in terms of crimes, the criminals, or a precise set of characteristics, one thing is certain: OCG is amorphous, constantly changing and adapting to their own particular set of life experiences or challenges. The Chicago City Council Committee on Crime observed this in their 1915 report. “While this criminal group is not by any means completely organized it has many of the characteristics of a system. It has its own language it has its own laws; its own history; its traditional customs” (Maltz, 1976. P. 344). There is evidence that privateers too, had their own unique systems and traditions (Conlin, 2009b, p. 8).

The Problem in Applying OC to an Historical Category

The privateer’s moment in history has been well documented, however, the shifting sands of time and changing society, especially during imperialist period, and later the colonization of the Americas blended to form a grey area that makes applying the term organized crime to their role problematic. Can it be classified as legalized criminal behaviour, or a set of criminal organizations under different flags? Privateering or “maritime violence, (also) called ‘piracy’ by its victims” (Jowitt, 2010, as cited in: Andrews, 1984, p. 116-128) placed the definition of its legality as a matter of perspective.

Another problem in classifying a modern term using an historical category is the complicated nature of the role of the privateer, which makes the study of it from a traditional Criminological standpoint problematic. The complicated nature is due in part to the time period during which he lived. It was his lived reality, and the factors that made up that reality, such as who he was in relation to the monarchy, his victims, the market, and the rest of society are all foreign to our understanding, and thus applying a modern construct creates a barrier that is difficult, but not insurmountable, to cross.

How the Definitions of OC Can be Applied to Privateering

The violent actions committed by privateers during their commission included abstract concepts such as crime and harm, which in turn, hold questions concerning morality. So, here is the crux of that moral dilemma: can privateering can be considered organized crime?

For a time, especially during the Middle Ages, even piracy was not considered strictly criminal, and as time went on, nor was privateering (Jowitt, 2010, p. 96). Though both included activities that would normally not be permitted upon one's own shores, the only distinction here was that it was legitimate *only* in the eyes of the one who commissioned them. To all others it was *still* considered piracy, especially his victims. Further complicating the matter was the fact that a privateer would turn pirate for a time, and then back to privateer, as circumstance and direction provided, especially during the buccaneering period (Conlin, 2009b, p. 9). Classifying their actions then becomes much more complicated. It is for these reasons that it is possible to apply definitions and characteristics of organized crime to privateering. The harmful actions committed by privateers were deliberately set apart from those activities carried out by the Navy in wartime, though they were exactly the same type of activities (Conlin, 2009b, p. 19), therefore privateering actions can be classified as an acts of war! Actions such as press-ganging (Conlin,

1998, p. 88), brutal treatment of prisoners, robbing, and the wanton destruction of ships and cargo (Conlin, 1998, p. 19) are all included in this assessment.

Research Methods

Research for this thesis entailed a literature review using both primary and secondary sources to examine the history and nature of Privateers during the 17th through the 19th centuries and to determine if the business of Privateering can be categorized as organized crime using contemporary definitions?

Secondary sources included books and articles examining privateers, maritime history, organized crime, and economic history. Primary sources included historical news media articles and government documents, many of which were retrieved from the Nova Scotia Archives.

This thesis begins by describing the different ways of classifying organized crime using the Canadian and United Nations definitions as well as a taxonomy of characteristics developed by the European Union. These definitions and taxonomy are then applied to privateering. Next, the characteristics found in Stephen Schneider's 23-point taxonomy of organized crime are applied to privateers in order to ascertain if they can be categorized under the umbrella term of organized crime.

Background

This section will cover how the role of the privateer was used by monarchs as a private navy that fought a subversive economic war against enemy merchant ships. It will cover their influence in the Americas, and how during the imperialist period and the early years of colonization the lack of a permanent government created a vacuum filled by the privateer – that larger than life figure who inhabited the grey area between pirate and naval officer.

Definition of Piracy

The definition of piracy is the unprovoked, predatory attack upon sea going merchant vessels perpetrated by using intimidation and violence with the intent in stealing the targeted ship's cargo, or both the ship and the cargo. According to Dan Conlin, pirates are "stateless" criminals and outlaws; the "enemies of all mankind" who prey on any nation's ships in peace or in war" (2009a, p. 82), and whom also form a "unique rebel culture" (Conlin, 2009b, p. 54) of their own.

Definition of Privateering

The definition of privateering is the unprovoked, predatory attack in wartime upon sea going merchant vessels perpetrated by using intimidation and (sometimes) violence with the intent in stealing the targeted ship's cargo, or both the ship and the cargo. It was state regulated and sanctioned with a Letter of Marque granted to the privateer and any prizes recovered subject to approval by the court of Vice-Admiralty, the same court who regulated the navy.

According to Dan Conlin, different countries or kingdoms used privateering as "a critical form of warfare from the middle ages until it was abolished by the Declaration of Paris in 1856 (2009b, p. 20). However, before the 18th century privateers were poorly regulated, with the lines of between them and piracy were blurred, leading many to question their legality (Neufeld, 2011, p. 6-7). This changed during the years of the Golden Age when, after the 1603 death of Queen Elizabeth I. Piracy numbers exploded soon after James I took the throne, made peace with Spain, and then cancelled all Letters of Marque the queen issued (Vachon, 1985, p. 53). This forced governments to update regulations so that they marked "a clear distinction in law and in practice between piracy and privateering" (Conlin, 2009a, p. 82). Over time, even that was not enough to sustain their trade. The 1856 Declaration of Paris marked the end of privateering and

permanently ended the debate regarding legality, forcing all private warships to internationally be regarded as pirates (Conlin, 2009b, p. 20).

Piracy Origin & History to King Henry VII

“Piracy is an ancient crime of the sea, even as old as seafaring itself” (Conlin, 2019). The first written accounts of piracy came from Egyptian sources where hieroglyphs told of the “Sea peoples” who raided their coastal towns (Conlin, 2009b, p. 7). The Roman recounted acts of piracy, with Cicero calling them “hostis humani generis” or “enemies of the human race” (Jowitt, 2010, p. 84). One of the more famous incidents of ancient piracy was when a young Julius Caesar was captured by pirates. They eventually spared his life, and instead of receiving their ransom, they were crucified (Conlin, 2009b, p. 7) History is replete with the stories of so many others turning to piracy, such as the Irish, Basque, Saxon, and Viking, Maltese Christians, and Arab pirates, also known as “Barbary Pirates” (Conlin, 2009b, p. 7).

Throughout the Middle Ages piracy was tolerated, and while not criminally sanctioned (Kert, 1997, p. 34) it was not regulated either because it was used as a means of subversive economic warfare against one’s enemies (Kert, 1997, p. 35), much like privateering was in later periods.

It was not until after 1536 that King Henry VIII outlawed piracy with the *Offences at Sea Act* that (Neufeld, 2011, p. 1-2) which made piracy a crime enforceable by criminal law, as opposed to civil law, whose use before that time only sought redress (Kert, 1997, p. 35). This act formally defined piracy as “All Treasons, Felonies, Robberies, Murthers, and Confederacies...committed in or upon the Sea...” (Neufeld, 2011, as cited in Tanner, 1922, p. 347-348).

The complicated relationship between English monarchs and their privateers (and pirates) is difficult, if not impossible to untangle. There can be no telling of the history of one without the

others. It is for that reason that the next section will detail the history of piracy and privateering together until the beginning of the 18th century, when the distinction between them was clear enough to separate them into two categories.

Piracy & Early Privateering to the Late 1600s: The Era of the Buccaneer

The late to end of the Middle Ages saw European colonization being led by Portugal and Spain. These two world powers divided up the Americas between them in a 1494 treaty called the Treaty of Tordesillas (Conlin, 2019) that created a line in the east for Portugal, including Brazil, and everything west for Spain, including most of North and South America (Conlin, 2009b, p. 8). “No peace beyond the line” (Conlin, 2009b, p. 8) was a saying by English, French, and Dutch who, once you crossed the Tordesillas Line, declared that it was war against Spain, regardless of any peace in Europe (Conlin, 2019).

Spain created a vast empire in the Americas, at a price paid by others. It was theirs through “brutal conquest and enslavement: vast plantations and the world’s biggest gold & silver mines” (Conlin, 2019). It was also Spain who “*de facto*” (Conlin, 2009b, p. 8) created a world currency that was sustained for the next 300 years (Conlin, 2019). The silver 8 reale coin was its base, and the inspiration for the phrase “Pieces of Eight” (Conlin, 2009b, p. 8) which was made popular by pirate usage and Robert Louis Stevenson, the author who wrote *Treasure Island* (Conlin, 2019).

As Queen Elizabeth took the throne in 1558, her need for peace ran deep as her main concern “throughout her reign was simply to preserve the safety of her kingdom” (Andrews, 1964, p. 6). This view was prudent and wise, for Spain and France were the superpowers of the day, and not England. She was also, according to Andrews, in possession of “an intuitive grasp of politics, and that tendency to prevarication which was the despair of her ministers was

fundamentally rational (Andrews, 1964, p. 6-7. It was this rationality which prompted her to wage a “private anti-Spanish enterprise at sea” (Andrews, 1964, p. 6) thus Queen Elizabeth’s need for an inexpensive but effective way to curtail Spanish economic dominance over the Americas was privateering; a great system for attacking the wealth of the enemy with little or no effort or risk of her own.

What is a privateer and what was his role? How did it differ from that of a pirate? Pirates and Privateers are two terms for what was essentially the same job: to apprehend an enemy ship and loot its cargo. “Schneider explains that privateers “were pirates who were issued licences (called ‘Letters of Marque’) by the sovereign or government of their country that empowered them to rob merchant ships belonging to enemy countries in times of war” (Schneider, 2017, p. 9).

The main difference between the two roles was an item of legitimacy, the Letter of Marque, although Horwood points out that “the distinction should have been simple, [but] it wasn’t always so, and it was sometimes a question of what you could get away with” (2011, p. 9). Essentially, it came down to who possessed the Letter of Marque, and who did not, although of this Conlin says that “they were often traded, falsified, and frequently ignored” (Conlin, 2009b, p. 9).

Queen Elizabeth was shrewd, and knew she lacked funds (Andrews, 1964, p. 10), but she made up for it by employing a political strategy and war policy that allowed her to use her sea-power for purely defensive purposes, “to protect English shores, to maintain communications and supply lines between the allies, and to deny Spain the use of Western European waters” (Andrews, 1964, p. 10).

There was only one problem. Privateers, or Buccaneer's as they were called at that time, tended move fluidly back and forth from privateer to pirate, and what choice would Queen Elizabeth have but to turn a "blind eye" (Conlin, 2009a, p. 82) when they would do so? They served her purpose by getting the job done without too much expense or effort on her part. As Kenneth R. Andrews outlines, "ordinary indiscriminate piracy remained a serious social evil and the government's attempts to suppress it were unavailing. But in times of crisis pirates could be useful, provided they concentrated on the right prey" (Jowitt, 2010, as cited in: Andrews, 1964, p. 15-16).

During this period England constantly condemns piracy on one hand, and then turns around and uses it, and even celebrating it. In her book, *The Culture of Piracy, 1580–1630: English Literature and Seaborne Crime*, Jowitt explores uses Sir Francis Drake as an example of how the word piracy is used "to explore the ways seaborne crime was, in certain circumstances, represented as central to the cultural construction of English imperial aspirations" (Jowitt, 2010, p. 47). It was his persona that allowed Elizabeth to proclaim his accomplishments while condemning the practice. Jowitt further explains that it was this instance, and so many others that allowed England to slowly, but surely weaken the Spanish and gain control over the Western seas. "Focus on the semantics of the highly-flexible term 'piracy' allows us to see the ways Drake's seaborne activities provided an important model for imperial achievement" (Jowitt, 2010), and what better way to circumvent the need for outright war? Lincoln agrees, writing "[p]iracy was not wholly repudiated as a social evil but understood by some to be important to the developing national economy" (2011: 72).

Two examples of privateers who also went pirate were Peter Easton and William Kidd. "Certainly, explicitly and officially, piracy was outlawed by Elizabeth I through repeated

proclamations against it, yet at times the state's attitude was far less draconian" (Jowitt, 2010, p. 96). For Easton, piracy payed off handsomely as he both received his pardon and retired to France where he married an heiress (Conlin, 2009b, p. 13-14). For Kidd, however, the timing did not work out so well. After raiding Indian and Arab ships not at war with England, he was hanged in 1701 (Conlin, 2009, p. 18).

It was clear that the Buccaneers needed stricter regulations with so many of them misbehaving, out of greed mostly. Piracy law was needed, especially when, and in spite of the Queen's relentless quest for maritime dominance that also kept thousands of them in business after war with Spain began in 1585 (Neufeld, 2011, p. 4). The rules that were constantly broken were simple: target enemy ships in war and stay away from domestic merchants and coasts. The Buccaneers did both by targeting coasts too close to home, and by targeting ships that the English were not at war with (Neufeld, 2011, p. 5). It became so bad that England was known as a "nation of pirates" (Neufeld, 2009, p. 9).

Before enforcing tighter regulations the definition of piracy needed to be expanded, for there needed to be a clear way to distinguish between pirate and privateer.

Pirates in the Caribbean

As smaller European Colonizers, such as the English, French, and Dutch struggled to gain a foothold in the Americas (Conlin, 2019), piracy became popular in places like the Caribbean. Renegade hunters and smugglers on the islands who became pirate and privateers were called "boucaniers" or French for "eaters of smoked & roasted meat" (Conlin, 2019). The word was Anglicized as "Buccaneers". After being attacked by the Spanish, the Buccaneers became privateers with the encouragement of the English and French, who "were quick to use these raiders to weaken the giant Spanish empire" (Conlin, 2009b, p. 8-9). The Buccaneers were

usually licensed with a Letter of Marque as privateers, but sometimes turned pirate and attacked everyone (Conlin, 2019). These infractions were often overlooked “as long as they were successful” (Conlin, 2009b, p. 9), and also for the practical reason that there were no courts to enforce them so far from England (Conlin, 2009b). The most famous was Henry Morgan, who “epitomized the buccaneering era with his successful, although not always legal, raids on Spanish colonies” (Conlin, 2009b). An influential first hand account by his ship doctor, Aleandre Oliver Exquemelin, called *The Buccaneers of America*, was written in 1678 (Conlin, 2019). In it, Exquemelin detailed how Letters of Marque were actually viewed by those who used them:

This we had purchased at a cheap rate, having given for it only the sum of ten ducats, or pieces of eight. But the truth of the thing was that at first our commission was made only for the space of three months, ...whereas among ourselves we had contrived to make it last for three years – for with this we were resolved to seek our fortunes (Conlin, 2019)

He also detailed how, aboard his ship, at least, they followed rules detailed in the ship’s Articles of Agreement. One of the most striking being “No prey, no pay” (Conlin, 2019, as cited in Exquemelin, *The Buccaneers of America*, 1967).

Division Between Piracy & Privateering

We have seen that the distinction between piracy and privateering “was so fine that a privateer might stray into piracy almost by accident” (Horwood, 2011, p. 9), but as time went on, those lines that had been so blurry during the years of imperialism and the first years of the colonization of the Americas grew clearer and more definitive. Queen Elizabeth I, in times past, was able to accommodate, “either through the semi-official nature of the enterprise or the retrospective issuing of letters of marque, the men who returned with valuable commodities wrested from their victims by acts of extreme violence at sea” (Jowitt, 2010, p. 102). Indeed, she handed out more Letters of Marque than anyone; a practice halted by her successor James I who “considered privateering immoral, and unsuccessfully tried to stop the practice” (Schulte-Bockholt, 2006, p. 183). He did this by revoking Queen Elizabeth’s privateer commissions, and even laying up those legitimate ships owned by the Admiralty. In response, many frustrated privateers turned to piracy (Vachon, 1985, p. 53).

The battle lines were drawn and there was no backing down. It was clear that in order to combat the sudden rise in piracy the answer was to respond with strength and resolve. For James, his next actions were justified because it was, again, a matter of context and conscience that prevented him from wholeheartedly taking up the practice of privateering. His “personal hatred of piracy” (Neufeld, 2011, p. 7), and his policy of peace with Spain, resulted in his decision in 1619 to behead Sir Walter Raleigh, a favourite of Queen Elizabeth (Horwood, 2011, p. 22) because he “took piracy too far” (Conlin, 2009b, p. 14) and needed to be made an example of. After the ascension of James I, Sir Henry Mainwaring must have realized how fine the balance between favour and treason was and, fearing for his own head, was inspired to write *On*

Beginnings, Practices, and Suppression of Pirates, presenting it to the king after he was pardoned in 1616 (Conlin, 2009b, p. 14).

In his attempt to suppress piracy, James soon found out that it was easier in theory than in practice as his “efforts were complicated by the Offences at Sea Act of 1536 which failed to account for dealing with piracy beyond the immediate vicinity of England (Neufeld, 2011, p.8). Further complicating matters was the corruption within the Admiralty Courts, rampant use of forged Letters of Marque, and the lack of any international law during this period (Neufeld, 2011). For half a century England’s attempts to enforce its own piracy laws were difficult due to the fact that James I inherited the debt Elizabeth left and the standing navy was comprised of only a few vessels (Neufeld, 2011). These problems forced James I to continue to depend on privateers to suppress piracy and continue England’s quest for Maritime dominance.

As the 17th century progressed, the English economy grew more stable due to “the development of England’s small network of colonies and trading posts into a commercial empire brought with it immense wealth and new methods of commerce” (Neufeld, 2011, p. 9). Focus now became how to protect this economy instead of subversively attacking another’s. The first Vice-Admiralty Court was set up in Trinity, Newfoundland in 1615 (Horwood, 2011, p. 13) to deal with piracy in the Americas, but it did little in the ensuing years, and so instead England resorted again to “press-ganging” men onto privateers in order to combat piracy (Horwood, 2011).

As the balance of power shifted toward the English in the Americas, they sought to protect their new status, and that included the need to keep a tight rein on the colonies that were blossoming an ocean away. The Navigation Acts of 1651 were passed for the purpose of forcing the colonies to trade only with Britain, but instead, this restrictive law only succeeded in

facilitating the rise of piracy and semi-legitimate privateering in what is now New England & Atlantic Canada (Horwood, 2011, p. 13). Neufeld disagrees with this countering that “some piratical economic activities, such as smuggling and the influx of pirated goods, persisted, the risk of destabilizing the political climate and creating conflict was seen as extremely unprofitable by both the English state and the commercial community” (2011, p. 9-10). Both views have merit because it was at this time that England herself moved away from supporting piracy, but through trying to suppress it through legitimate channels, only ended up causing it to evolve and find other means of continuing. This happened through the corruption of government officials from New England to the Carolinas as they issued illegal Letters of Marque and even went to far as to hide pirates in their mansions (Horwood, 2011, p. 13).

When King William took the throne in 1688 (Marsters, 2004, p. 17), he turned New France into a war zone for over a decade in yet another colonial struggle that finally ended with the signing of the Treaty of Ryswick in 1697 (Marsters, 2004, p. 24). The treaty returned both England and France’s possessions back to their original pre-war status. In response to this, Marsters states that the “years of extreme effort, of terror, peril, and gallantry were, in effect, for nothing” (2004: 24). It can be argued, however, that it was King William’s War that changed the landscape of North America because it forced each side to move the battle from purely economic terms into one that focused on the importance of possession of the land itself, partly due to France’s inability or disinterest in providing the necessary resources to fortify New France (Marsters, 2004, p. 24). Furthermore, it was the victories won by d’Iberville (2004: 17-24), New France’s boldest soldier and *corsair* (Marsters, 2004, 23), that forced England to put more time and resources into gaining ground in North America, and thus tipped the balance of power, setting the stage for the taking of Port-Royal.

After the war, King William's Piracy Act of 1698 was developed in an effort to enact "law better suited to the suppression of piracy and the promotion of trade within the Empire. The resulting law allowed for immediate trial and judgment by local Admiralty courts whereas the act of 1536 required all trials to take place in London (Neufeld, 2011, p. 12), but without the sufficient backing of law courts and an adequate navy, the law was one of a growing stack that was insufficient to deal with the problem that was likely the product of many years, on England's part, of moral flexibility when it came to pirates.

Atlantic Canada to 1759: Privateering's Effect on Settlement

It is impossible to tell of Canada's history without weaving in an intricate tapestry of peoples, wars, treaties, colonization, Fortresses and sieges of those fortresses. It is a story that incorporates more than one discipline for more than one audience. The result might not be linear, and will not include all of the elements, but it will impart the understanding of how privateers, so long neglected in Canadian history, shaped more of it than most of us know.

The relative isolation of North America from Europe allowed a unique and particular culture to develop that we cannot fully appreciate in the modern era. From a European perspective, mercantilist ambition played a part in reaping of the benefits of this land and sea (Andrews, 1964, p. 232) but most, save the French, did not seriously attempt to colonize North America until the middle of the 18th century. There were pockets of English colonization, but they were used mainly for fur trading, fishing camps, or strategic forts used to fight the French and their dominance in the fisheries (Vachon, 1985, p. 169).

From a North American perspective, the years were long and tumultuous between 1651 and 1759, the year the French were finally defeated in the fight for Canada (Vachon, 1985, p.173). It was a world that saw many wars between the French and English that played out with

undertones of colonial supremacy; King William's War, The War of Spanish Succession, and the War of Austrian Succession. Even the Seven Years War, which was a much larger conflict than just North America, also played a part in the struggle. It was "more than a war of the imperialist powers in the colonies, but it was more a war to conquer the trading supremacy of the world. It was a subversive war" (Vachon, 1985, p. 17). There was also, in this world, a constant sway of allegiance between the British and the French within the Native populations (Horwood, 2003, p. 14). So too, both the fish and fur trade characterized where exactly Imperial powers could and would lay claim in a taking and ceding of areas rich in natural resources (Horwood, 1978, p. 49-59).

The hub of all economic activity before 1749, and even before Montreal rose to prominence was Newfoundland and the very important Grand Banks. With no navy major naval presence in Newfoundland, and a weak government, the scores of "Masterless Men" (Horwood 2011, p. 142) truly helped build up both privateering crews and pirate crews alike for almost 100 years by providing "a 'nursery of seamen' for pirates as well as the navy" (Conlin, 2019). It was into this culture that the fight for supremacy between France and England was fought and the importance of Scottish Colonial Governor Samuel Vetch capturing Annapolis Royal meant that, finally, there was a significant English foothold in North America. This capture preceded the Treaty of Utrecht in an ominous warning for the French (Vachon, 1985, 136). He was also instrumental in encouraging the British to develop Nova Scotia for the resources and strategic position (1985, p. 135).

The Treaty of Utrecht, which put an end to the war in 1713, proved extremely costly for New France in the form of fish, fur, land, and Native allies (Vachon, 1985, p. 130). It also effectively finished off the job English privateers began in undermining French fishing and trade

as “chaos returned” (Horwood, 1978, p. 54) in the form of an “epidemic of piracy and privateering” (1978: 54), paving the way for the greatest move of piracy the world has known: The Golden Age. It was at this point that France lost its hold in the Americas, though it would take 50 more years before New France finally fell into British control (Vachon, 1985, p. 130). The single most important event that preceded the loss of New France to England was the capturing of Louisbourg in 1758 (Vachon, 1985, p. 169), for it was the last stronghold of New France. The symbol of their wealth from fishing and furs, and the only thing that kept English from dominating the Atlantic waters of North America. The final blow would come the next year when the French were defeated on the Plains of Abraham. “New France was no more” (Vachon, 1985, p. 131).

Privateering from 1759 Onward

The next section of “privateering history can hardly be told without a caveat” (Conlin, 2019), because even though it can be told as a straightforward chain of event, there is always an underlying question of legality (Horwood, 2003, p. 15). In Atlantic Canada, privateering “separates itself into distinct eras based on European and colonial wars that involved Nova Scotia” (Conlin, 1998, p. 80), and it is during this period that there develops a sharp division, a distinction between pirate and privateer. This is for three reasons. One, the founding of Halifax and the Vice-Admiralty Court meant a permanent British Navy presence in the Maritimes. Two, in the latter part of the 18th century and up to 1856, when privateering was abolished, it was a very carefully regulated practice, and on these shores, at least, it was deemed respectable, albeit resented by the navy as competition for prize money (Kert, 1997, p. 80). Three, international cooperation and the rise of the nation-state further regulated activity in places that were considered ungovernable or “no man’s land” (Horwood, 2011, p. 8) in times past.

The fact that privateers existed at all Canadian history, and even enduring as their practice did, shows their necessity. Isolated colonies like “Acadia and Nova Scotia also benefitted from privateering by providing both offense and defence when naval presence was minimal” (Conlin, 2019), that is, before serious British colonization with the founding of Halifax in 1749. There was also a need for a new settlement in Nova Scotia that would act as “a permanent counterweight to Louisbourg, which had been given back to the French” (Marsters, 2004, p. 69) after the War of the Austrian Succession (Vachon, 1985, p. 30). Strategically important, Halifax was chosen for its long natural harbour that was easily defensible. A Vice-Admiralty Court of Halifax was also set up alongside the town in 1749 (Kert, 1997 p. 49) as the British needed a base in the Maritimes to oversee privateers, the navy, and to prosecute pirates. Privateering during this time also brought with it “an added bonus of a local economic boost” (Conlin, 2019) as ships needed supplies, repairs, taverns and businesses did well, and there was money injected into the economy in the form of prizes (Conlin, 1998, p. 88). During the Seven Years' War, Halifax took so enthusiastically to privateering that “the governor of the day complained that workers could think of little else” (Conlin, 1998, p. 80). There was also security in being a privateering base, like Liverpool. “Before privateering, the appearance of any strange sail on the horizon was a cause for alarm. After privateering, a strange sail became welcomed as it often meant a captured enemy ship being sent in by a local privateer” (Conlin, 1998, p. 88, as cited in Perkins & Fergusson, 1967). Liverpool also played a part in the French Revolutionary and Napoleonic Wars with 12 privateers and thirty armed merchant ships” commissioned (Conlin, 1998, p. 80).

One of the most important wars during which Atlantic Canadian privateers played a part was the American Revolution. According to Conlin (2019), the Americans were “looking for

excuses to invade Canada, capture the rest of North America. They think it will be easy: ‘A mere matter of marching’.” Beginning in 1775, aggressive and unlicensed (Conlin, 2009b, p. 19) rebel privateers who never actually went pirate, like the *Washington* and *Lizard* (Marsters, 2004: 87) raided up and down the coasts of Nova Scotia, New Brunswick, P.E.I., and Newfoundland, robbing and burning houses, and destroying fishing vessels, especially concentrating on those villages sympathetic to the rebels (Conlin, 2009b, p. 19-20). In response, formerly “pro-American ports like Liverpool” turned and fought off the Americans, driving them back, and “with their own fleet of privateer schooners” (Conlin, 2009b, p. 20) taking the battle to the coast of New England. In all, seventy-seven privateering licenses granted, and Nova Scotia’s privateers took eighty American vessels (Conlin, 1998, p. 80). The sheer brutality of the suffered by the people in the Maritimes roused anti-American sentiment which, in turn, fuelled British pride. It has been said that it was the privateers who turned the tide by fighting valiantly, even to the point of keeping the Maritimes “out of the new American Republic” (Conlin, 2009b, p. 20).

The War of 1812 was history’s last war that “privateering played a significant role” (Conlin, 1998, p. 80). Privateers took 200 American ships, including an estimated 50 the *Liverpool Packet* (Conlin, 1998, p. 80), arguably Canada’s most famous privateer, however, not everyone was convinced that privateers should have been used in this conflict. Horwood says of the War of 1812

In Nova Scotia...The naval commanders were opposed to privateering altogether. If an auxiliary fleet were needed, they felt the ships should be commandeered and commissioned under the direct orders of the naval commanders. This, however, would have cost a great deal, and in the end wealthy shipowners were allowed to wage war for private gain (Horwood 2011: 164)

Decline of Privateering

The decline and abandonment of the practice of privateering is complicated, both by conflicting opinions as to why it was so and overshadowing it all was the continued debate about its legality. After the Golden Age, piracy declined as nation-states were on the rise and their navies grew considerably, thus shrinking the hunting grounds pirates enjoyed in the Americas. What was left was privateering, which was basically piracy with a veneer of respectability, for it was commissioned to undertake what were essentially acts of piracy. Therefore privateering, by any other name, is still predatory.

After the War of 1812 both piracy and privateering were in decline. The British Royal Navy now firmly based on this side of the Atlantic, “began patrolling the high seas with fast sloop-of-war especially fitted out for capturing pirates” (Horwood, 2003, p. 14) with piracy in the Atlantic finally being suppressed (mostly) by the end of the 19th century (2003: 14). Privateering itself was abolished in 1856 with the signing of the Declaration of Paris (Conlin, 2009b, p. 20).

Of this, Janice Thomson writes that privateering was ultimately abandoned as a result of the rise of the nation-state. “Two factors were crucial to the decline of mercenarism and other forms of non-state violence: the transformation of the state into the nation state and the rise of the citizen” (Thomson, 1990, p.43).

There is also the consideration of globalization, the development of international law, and international cooperation on matters such as piracy that influenced lawmakers to abandon the practice, but everyone from Conlin to Kert agree that economic necessity was the motivation in undertaking the risky business of privateering. “Like Conlin, [Kert] argues that economic necessity, rather than patriotic zeal, was the primary motivation of most privateers” (Sutherland,

2005). It was likely the same motivation that prompted states to back away from private navies who plundered for economic gain. In short, privateers were both competition for legitimate trade as well as a liability in matters of international relations.

The Renegades – A Word Regarding Privateers Who Turn Pirate

The general attitude of the time toward those privateers who turned pirate, especially during the Elizabethan age, was one of tolerance, or at the least the turning of a “blind eye” (Conlin, 2009b, p. 11). Even Richard Whitbourne, an English noble who was captured by privateers turned pirate three times called them “erring English captains” (Whitbourne, 1870, p. 14), which does not seem to indicate a strong judgement on the morality of the practice, but rather, it imparts an acquiescence, or at the least a passive attitude.

Labels are important as one word can signify much more than just a definition. Attached to that one word may be cultural or legal connotations, and even societal expectations. Piracy is one of those words. It is an ancient word, and so full of meaning that no matter where one is from the meaning is clear, so clear that there would be no redeeming it. This is not so for the word privateer; a fairly modern term. The entry in the Oxford Dictionary puts its origin at mid 17th century, and it is a combination of the words private and volunteer, or “on the pattern of volunteer” (Oxford Dictionary, n.d.). That meaning, combined with the Letter of Marque (also a fairly new term), or that label, must have changed out of necessity.

The Letter of Marque was used by the English from the end of the Middle Ages and onward, but not in conjunction with the term privateer until the middle of the 17th century. Sometimes labels show more about what someone is attempting to conceal more than what they are attempting to convey. For example, Jowitt uses Sir Francis Drake as an example of how the word piracy is used “to explore the ways seaborne crime was, in certain circumstances,

represented as central to the cultural construction of English imperial aspirations” (Jowitt, 2010, p. 47). It is not a secret that Drake was a favourite of Queen Elizabeth, as he was knighted by her. But he was also known as El Draco, the feared and hated pirate (Conlin, 2009b, p. 9). Lincoln, commenting on Jowitt’s assertion that the perception of the label of pirate, as applied to Drake’s activities, was fluid. She writes, “pirates were criminals on the one hand, and on the other, tools of foreign policy undermining the monopolistic practices of the Spanish Empire” “changing representations of piracy over the reigns of three monarchs, from Elizabeth I to Charles I, shows developing attitudes toward seaborne crime as shifting political circumstances shaped attitudes towards the criminality of piracy” specifically because of the “increasing politicisation of pirate characters and piracy” (Lincoln, 2011, p. 72). Nowhere was this more apparent than when pardoned pirate, ex-privateer Sir Henry Manwayring wrote a treatise on how to suppress pirates, presenting it to King James I after being pardoned for piracy. Here he tries to convince the king that privateering would be a good alternative to piracy as their numbers grew greatly since the death of Queen Elizabeth I.

...me thinketh the best and surest way, and that which might much advance the wealth and glory of our State, were to devise some more universal employment than now we have, by which men of that spirit might not complain, as they now do, that they are forced for lack of convenient employment to enter into such unlawful courses. The proof of this is plain, for since your Highness' reign there have been more Pirates by ten for one, than were in the whole reign of the last Queen

(Manwayring, 1920, p. 41)

Manwayring must have convinced the resistant king to commission privateers because it is not long after this that the term was widely used and used in conjunction with the Letter of Marque

(1920: 41). Why go to all the trouble? The answer lies in the lengths the English went to legitimize the privateering; a word with no previous connotations.

History of Letter of Marque

The Letter of Marque and Reprisal heavily borrows from the French terms to “Reprendre and Reprize, to retake one thing for another” (Justice, 1710, p. 461) or literally translated as “resume recovery”. It was an amalgamation of the terms, Pignoratia (modern Spanish: pignoraticio) meaning “secured”, Clarigatio (Latin) meaning “reparation or fine”, and Androlepsia (Greek), which was an ancient Greek custom used to exact a combination of justice and revenge. Ancient people would use a Letter of Marque and Reprisal “in Imitation of the *Androlepsia* among the *Greeks*, to seize the three next Citizens of that Place wither the Murderer had fled” (Justice, 1710, p. 461).

What was the exact nature of the Letter of Marque as it pertained to the 16th through the 19th centuries? Was it a legal document that justified the privateer’s right to steal and harm foreign peoples? Or was it just a legal formality in matters of international relations, void of any real power? Did it exist mainly to serve and to protect the monarch who issued them? Below is a quote from the book *A general treatise of the dominion of the sea*, written in 1710 by Alexander Justice. In this passage he explains how and why the Letter of Marque came to be used in modern (his) times:

Tho' by the Law of Nature one Man's Goods are not to be try'd for the Debts of another, nor thoe of the Publick; yet this Cu•tom has been introduced by the voluntary Law of Nations...For this Rea•on, as the Great Ju•tinian ob•erves, was this Law of Reprizals e•tabli•h'd by the Con•ent Of Nations, becau•e 'twas grounded on the Urgency of Human Wants, a••erted with the greate•t Nece••ities, without this great Nece••lty,

Licence would be given and tolerated for the committing of *Depredations and Injuries*"

(Justice, 1710, p. 461)

So, in effect, it was the urgency of, and demand for revenge of the people that prompted the monarchy to grant these Letters of Marque to recover what was stolen from them. Justice (1710) was careful to add that it was not within the law, or custom for one person, or the public in general, to pay for the loss of goods of another. Furthermore, it was the "Urgency of Human Wants" that precipitated it, for the alternative was a tolerance for piracy that would ensue should the permission not be granted (p. 461). In short, it was the monarchy that was used by the people to licence the acquiring of personal gain as revenge for personal loss.

It makes sense then that the monarchy refused to officially back the privateer with official power. Then, in a mutually beneficial relationship, the monarchy used an official office to sanction the practice while enabling the state to wage a war without any involvement (culpability), responsibility (no legal recourse), or foreign relations (no diplomatic ties or formal declarations of war, in that respect). Furthermore, issuing a Letter of Marque was minimal risk for a very good return. Horwood puts it best when he writes "to the privateer's victim he was often a pirate and sometimes a criminal just as vicious as Blackbeard or any other freebooter of the Spanish Main" (2011, p. 18), meaning perspective was relative to the side one happened to inhabit.

The Letter of Marque was also an international document, but this was only in respect to the government that it was issued under, and then only recognized in conjunction with other Letters of Marque issued by those nations that had trading agreements under the Law of Nations (Justice, 1710, p. 462). Its jurisdiction was limited to those places not regarded as independent entities, such as North and South America. These territories were not treated as, but looked upon

as ungoverned ones, to be exploited and/or traded with (Tawney & Power, 1924, p. 19-21). Imperialist ambition also played large role in the location of the territory where the privateer made his living and, as a natural consequence, virtually all of his hunting grounds were undertaken far from Europe, so therefore could be categorized as international in scope (Justice, 1710, p.462). Later, as English colonial efforts increased, some privateers were permanently based in the Americas, but they were still technically categorized as international as they were governed from England, and only preyed upon foreign vessels (Sutherland, 2005).

A Letter of Marque and Reprisal was never meant as a replacement for the navy and was not always enacted in times of war. Its purpose was to obtain justice, just not in the way we understand today. It was considered an act of war between individuals, and not states. “In countries of the common law, at least, arbitrary distinctions between private and public right or duty were still far in the future. The universal law was law for individuals no less than for states” (Dickinson, 1952, p. 27). In fact, it was important for states that they did not become involved, and if the actions of a privateer endangered the state, it was put off. “But if the Supreme Power thinks the Execution of those Letters of Reprisal cannot well be effected without endangering the Peace of both Estates, it may be respited till a more convenient Time offers” (Justice, 1710, p. 463). So, the Letter of Marque was also used *in place of* the absence of International Law and Justice, at the time still in its infancy, as evidenced in the Law of Nations (Dickinson, 1952, p. 26-27) who governed economic relations during the Middle Ages and onward. Eventually international law evolved as we know it today, yet that foundational premise for such vigilante justice was built upon the need for revenge (Justice, 1710, p. 461), but in modern times there are no provisions within any Western law that allow the public to administer their own justice.

Analysis - Applying OC to Privateering

Applying Definitions of OC to Privateers

This research applied two definitions of Organized Crime to the business of Privateering; the UN definition, and the Canadian one. Both definitions of OC are very similar, with the Canadian one being deliberately modelled after the UN definition. For comparison purposes, the EU taxonomy was used as it was built from the UN definition, and expanded (Schneider, 2017, p. 45) to include Schneider's 23-Point Taxonomy of an Organized Criminal Conspiracy. Both definitions are included below:

The UN Definition of OC

The Convention does contain a definition of 'organized criminal group'. In Article 2(a):

a group of three or more persons that was not randomly formed;

existing for a period of time;

acting in concert with the aim of committing at least one crime punishable by at least four years'

incarceration;

in order to obtain, directly or indirectly, a financial or other material benefit (Schneider, 2017, p.

43).

The Canadian Definition of OC

According to Section. 467.1(1) Criminal Code of Canada:

A criminal organization is "a group, however organized, that

(a) is composed of three or more persons in or outside Canada; and

(b) has as one of its main purposes or main activities the facilitation or commission of one or more serious offences that, if committed, would likely result in the direct or indirect receipt of a material benefit, including a financial benefit, by the group or by any of the persons who constitute the group.

It does not include a group of persons that forms randomly for the immediate commission of a single offence” (Schneider, 2017, p. 43-44).

The only difference between the above definitions is that the UN definition adds a specific length of sentence that would a criminal act would carry. Privateering *would* technically apply to both, but they are too broad to draw a definitive conclusion, therefore also applied here is Stephen Schneider’s 23-point Comprehensive Taxonomy of the Characteristics of an Organized Crime Conspiracy. It is used below to compare each point with all known characteristics of the behaviours and activities employed by privateers during their course of commission.

Rationale for Using Schneider’s Typology of OC

The purpose in creating a model of organized crime influences how it may or may not be used. Specific law enforcement objectives, political objectives, or even bias of what may constitute an organized crime conspiracy can influence the addition or omission of characteristics, leaving that system of classification with either too broad of a scope or one that is too restrictive, when attempting to apply a set of characteristics that does not specifically fall within the mandate of the model.

This research has also examined two other models of organized crime, one created by the EU, and the other created by the RCMP, and has found that neither model fit this research in terms of classification of the characteristics of privateering as a business, or the behavioural

characteristics of the privateer. Speaking of the purpose in using a crime model, von Lampe says, “the importance ascribed to models in the study of organised crime lies not so much in presenting final conclusion. Rather, models here are treated as heuristic devices that guide and systemize research” (2011: 302).

Included in Appendix 1.1 is the RCMP model. The premise of this model is what is called a “threat assessment model” (Schneider, 2017, p.79). This model focuses on those characteristics that law enforcement would use in identifying and combatting a specific threat to Canadian society that they may encounter in the course of their work. The characteristics are not the type that would be useful in classifying the privateer as an organized criminal because they were compiled with the aim in identifying, apprehending, and prosecuting people who pose a specific threat to a specific community.

In Appendix 1.2, the EU taxonomy attributes 11 characteristics to identify an OC conspiracy. Only six need be included to determine if a group is a criminal organization, but the following four characteristics must be included: (1) collaboration of more than two people, (3) in operation for a prolonged or indefinite periods of time, (5) suspected of the commission of serious criminal offences, and (11) pursues profit and/or power (Schneider, 2017, p. 78). This research did not fit with this model because some of the criterion were too narrow in scope, and others too broad. For example, while it can be argued that running a privateer ship requires more than two people, and it could therefore easily fit into the EU model, it can also be said that it can *too easily* fit into the model. The intention behind the EU using such a low number as part of their definition had more to do with flexibility in the classifying of a particular group of offenders, however small, and then determining if those that are involved can be considered as part of a *core group* of offenders, than opting for a more restrictive one. It is for this reason that

including number one in the EU model seems both too narrow and too broad at the same time.

The same can be said for each of the four core characteristics.

The above reasons, taken together, *most fit* using Schneider's Comprehensive Taxonomy of the Characteristics of an Organized Crime Conspiracy. Each of the characteristics were concise and could easily be applied or rejected, without ambiguity, when attempting to classify a suspected criminal organization. Each of the points below will include the listed description found in *Canadian Organized Crime*, and then the application each of the points to known characteristics of privateers.

A Comprehensive Taxonomy of the Characteristics of an Organized Crime

Conspiracy

Organizational:

1. Multiple offenders: Yes

The more people that are involved in a profit-oriented criminal conspiracy, the greater the requirement that these people and the activities they carry out are organized (p. 83).

Section 467.1(1) of the Canadian Criminal Code defines a criminal organization as three or more people conspiring together

Applying this classification is clear because, in order to operate successfully, each privateering vessel required more people than a typical merchant ship's crew, who had between 10-20 men (Horwood, 2011, p. 11). The reason being is that "the aim was to capture ships with as little damage as possible" (Horwood, 2011, p. 16), and also for practical reasons as it took more people to man cannons and guns or to sail a captured prize (Hillman & Gathmann, 2011, p. 734). This meant that (most of the time), a privateer ship would employ between 40 and 50 men (Schneider, 2017, as cited in Kert, 1997: 157) ensured the intimidation factor alone would

convince the merchant vessel to surrender quickly. Their commission being accomplished with little or no physical violence was paramount as an intact ship was “the privateersman’s sole hope of reward” (Horwood, 2011, p.16).

2. A systematic pattern in the relationship of the offenders: Yes

To constitute an OC conspiracy, there must not only be multiple offenders, there must also be a systematic pattern to the relationship among these offenders. This systematic pattern of relationship must feature a structure that is deliberate and functionally purposive for the committing of offences, and to also serve the broader goals of the criminal conspiracy (Schneider, 2017, p.83). Two basic types of criminal relationship are identified by Ianni (1974): associational network model and an entrepreneurial model, with some groups being made up of both types. The first one, the associational network, is “a close personal relationship among the offenders and includes a strong sense of mutual trust” (p. 83-84). Associational ties include familial, regional, kinship, or based loosely on ethnicity, though the last view is somewhat controversial, as seen in Alien Conspiracy Theory & Ethnic Succession Theory (Schneider, 2017, p. 107-116). Instead, Schneider explains how a concept called Social Embeddedness, refers to how criminal ties are often built on existing familial, social, and professional relationships (as cited in van de Bundt, Siegel, and Zaitch, 2014) rather than ethnicity. The second, or entrepreneurial model, is a bond that is economic in focus and organized using either a hierarchical or symmetrical relationship (Schneider, 2017, p.84-85).

The relationship between the sailors aboard a privateer vessel was complicated and can be categorized as both associational and entrepreneurial. On one hand, the bond between those on a privateering vessel was purely economic (Horwood, 2011, p. 16). All of the privateers were

on the ship in order to make a profit; a well-paid job, if successful. On the other hand, all those aboard a privateer ship were all sailors, in a job that experience and/or expertise. This can be categorized as associational as every man identified as a sailor. There was no need to involve kinship ties, ethnic ties, or even regional ties because the privateers came from many nationalities, ethnic backgrounds, and even different regions (Conlin, 1998, p. 87).

In order to operate successfully each crew had to have a Letter of Marque, an authorized mandate from the Crown, which further cemented the relationship between the privateer captain (who may or may not be the owner) and his crew of men who worked together with the aim of capturing ships as prizes, relieving them of their cargo, and selling it for a profit.

3. Specialization/Division of Labour: Yes

In his book *Canadian Organized Crime*, Schneider explains that a division of labour as utilized by an organized criminal group will see specific functions divided among offenders according to its particular power structure. In a hierarchical organizational structure, the top position would possess the most power, have the most responsibility, and see the least amount of manual or menial labour. As one moves down the hierarchy one would assume more and more menial tasks with the least amount of power. In a symmetrical organizational structure, each participant may assume equal amounts of responsibility with their duties focused more on specialized skill rather than on a relationship based upon power (Schneider, 2017, p. 85-86).

A privateering vessel can be said to have been organized in both a strict hierarchy and a network of specialized crew members. To be successful, a privateering ship required an organized crew that worked together. This required a captain, first mate, quartermaster, boatswain, right down to cabin boy in a hierarchy that was likened to the navy, or at least a

militia (Marsters, 2004, p. 11). Practically speaking, sailing a ship with accurate navigation, in all types of weather, and possessing the skills to successfully capture a merchant vessel also required a high level of organization and division of labour. Some crew members were responsible for more than one job at a time, but no-one came on board without a purpose. Whether a ship was a privateer, a navy ship, or a pirate ship, the tasks required to run a successful ship did not change, the major difference among them was their mandate, or lack thereof (Horwood, 2011, p. 8).

4. Insulation against law enforcement: Yes

Many criminal groups organize in such a way that they gain the ability to insulate and protect individual members from arrest and prosecution. In this way, the entire group is protected as well, ensuring the group is fortified and will endure past any loss of individual members (Schneider, 2017, p. 86). Some groups use lower ranking members to carry out the tasks that attract the attention of law enforcement, with successful behaviour rewarded and unsuccessful behaviour punished. Other groups rely on rules of engagement or taking an oath to secure protection of the higher-ranking members.

Maritime Law regulating of the business of privateering evolved over the centuries, but the one thing that did not change was the use of the Letter of Marque and Reprisal. This document ensured that the deliberately violent and predatory acts committed by privateers would be protected because they were commissioned to do so, under the law. Since Piracy was considered to be well protected by the nobility, merchants, officials, gentlemen, and admiralty officials, they could hardly be prosecuted since this lot was responsible for, not only enacting the law, but enforcing the law (Schneider, 2017, p. 7).

The regulations involved at most points in history left a lot of room for a broad interpretation of their mandated activities with little oversight or recourse for those that broke the rules. For example, privateers were generally expected to complete their mission with as little violence as possible, but it was not ruled out, and if violent measures could be shown to be justified, then it was allowed, including murder. Murder, theft, and violence are all punishable offences in every region that privateers operated, therefore their ability to employ these measures in the course of their duty, with impunity, shows the level of their insulation from law enforcement measures. That is not to say there were no consequences. The privateer's activities straddled the line of what may be considered crime, and even piracy, therefore they were constantly in danger of paying a heavy price should their activities be declared out of bounds, and sometimes that decision was made arbitrarily by a ruling monarch, as in the case of Henry Mainwaring, who was in the perfect position to know of such things. He petitioned the king for permission to attack Spanish ships in peacetime and his request was granted with the stipulation that he refrain from attacking Spanish ships in Europe, and instead concentrating on Spain's ships in Western waters (Horwood, 2011, p. 34-35). He did not listen and paid the price with a prison sentence. When he wrote *Of the Beginnings, Practices, and Suppression of Pirates* a few years later he acknowledged that protection from the threat of consequences emboldens one to commit crime. "For questionless, as fear of punishment makes men doubtful to offend, so the hope of being pardoned makes them apter to err" (Manwayring, 1920, p. 43).

5. Specialized channels or modes of communication: Yes

Some criminal groups use measures to protect communication among offenders. It can be protected in one of two ways:

- 1) Taking steps to ensure that criminal communication is not intercepted by police.**

2) Structuring communication in such a way that it cannot be interpreted by police.

Channels of communication:

- a) Hierarchical groups: lower ranking members have access to only those only directly above them (no direct communication with leaders)**
- b) Networks: limited communication between different cells with much of it occurring through a central “broker” (Schneider, 2017, p. 87).**

The importance of communications in the privateering era put more emphasis on relationships between those carrying on the business rather than any attempt to protect their communications from a higher authority. The hierarchy of a privateering vessel would have followed much the same power structure as a navy ship, and in some instances, governed more like a pirate ship, but, according to Dan Conlin, they would have “mostly reflected the economic and social class ashore” (1998, p. 89). A strict hierarchy prevented regular crew from communicating with the Vice-Admiralty, the monarchy, or the owner of the ship, if the owner was not the captain. The captain and the owner were usually the only ones that had any communication with the reigning monarch, or the Vice-Admiralty since regular ship mates would have little reason to communicate with them.

As far as networks go, the only real documented communication between privateering vessels was when a privateer would share intelligence regarding an enemy with either the militia or the navy (Marsters, 2004: 11), but no other documented evidence of a network of communication between privateers was found, although it would be naïve to dismiss any collusion between them outright, especially during times when they were far from home and any regulating body. Manwayring writes that this information would be useful “if there should be any purpose to employ Ships for the suppressing of Pirates” (Manwayring, 1920, p. 25). From

page 25 to 40 he details what conditions they worked in while abroad, including weather, the location of potential enemies, and dangers faced by local authorities in ports that were important to international trade. This information would have been very useful to privateers communicating with other ships of their own country while abroad, but it must be emphasized that they were, for the most part, in competition with one another, therefore communication was likely at a minimum.

6. Limited or exclusive membership. Implied

In some criminal groups limited or exclusive membership might be used to ensure the groups core ideals, or continued existence, is kept in tact. Group membership is predicated on some form of binding relationship among members, and may be based on nationality, kinship, or ethnicity, criminality, or specialty in a necessary skill used by the group.

Membership implies a greater level of responsibility, monetary and other benefits such as influence, power, and prestige (Schneider, 2017, p. 88).

Membership is automatically limited on the basis of experience or expertise in joining a privateering vessel, and owning one was only reserved for the merchant class, as the Letter of Marque was reserved only for those merchants who suffered economic losses in wartime, and only if, by petition, granted a Letter of Marque (Marsters, 2004, p. 6). The crew would be made up of those who had experience on the sea, including “working class of fishermen, forest workers and deep-sea sailors” (Conlin, 1998, p. 86). Other than the obvious there were really no restrictions as to who could join a crew, but it was likely based upon the personal preference of the captain.

7. Recruitment: Yes

In order to successfully continue operations, and even survive, OCG must recruit members that provide vital functions in the course of their criminal activity (Schneider, 2017, p. 88). Recruitment may also serve as a point of indoctrination in that outsiders on the periphery of certain OC groups are attracted by the group's well-known reputation, and thus are easily recruited from that pool of people.

Privateering vessels relied heavily on recruitment due to the constant shortage of men willing and able to join the crew for sometimes months or years at a time. Colourful ads promising “riches and honour” (Conlin, 1998, p. 79) were written in newspapers, on posters, and nothing seemed to be off-limits as crew was recruited from other privateering vessels or even the navy (Horwood, 2011, p.16). Privateering captains were also authorized to force (press) men to join their crew in a practice known as press-ganging (Horwood: 2011: 14, Conlin, 2009: 11), but most of the time it was not necessary since life aboard a privateer ship was more profitable with less hardship (Horwood, 2011:16, Conlin, 1998: 85).

8. Continuity/Continuing Enterprise: No

In order to be prosecuted under section 467.1(1) of the Canadian Criminal Code, a criminal organization must have, as a defining feature, continuity, either by continued participation by its members or an enterprise that transcends its members. This is important because a group's survival depends wholly upon continued resilience in spite of the multiple risks (imprisonment, death) facing an OCG. Continuing enterprise may mean a group that places more importance on the group as a whole than its individual members, which would ensure it lives past the loss of one or more leaders. In any case, there must be

more than one offence over a period of time to qualify as a criminal organization Section 467.1(1) (Schneider, 2017, p. 88-89).

The premise here, in determining a continuing enterprise, is that the business itself would continue past the life or leading of the captain. In some cases, such as the Liverpool Packet, there were multiple captains, but no matter who was the captain it was always owned by one principal owner, Enos Collins (Horwood, 2011, p. 163). Also, even though some ships undertook many missions that stretched over multiple years, no evidence could be located that indicated the core business or enterprise was bigger than that of the single ship or the principal owner. As a matter of fact, by the end of 1813 Enos Collins “had begun to retreat from privateering” (Fingard, Guilford, & Sutherland, 1999, p. 39) in favour of more lucrative ventures. This makes sense as it has been observed that those involved in a business involving crime will, as the saying goes, “Follow the money”

Criminal enterprises come into existence, profit, and flourish because...there is a market dynamic at work which is independent of the criminality of any specific individual or group. It is inevitable that criminal enterprises will rise up to meet these demands and reap the profits (Southerland & Potter, 1993, p. 264)

9. Multi-jurisdictional/transnational in scope: Yes

An OCG whose criminal activity crosses borders, whether or not the perpetrators physically do so, can be said to be multijurisdictional or transnational in scope (Schneider, 2017, p. 90). Some examples of activities that OCG participate in across borders are money laundering, terrorism, drug trafficking, arms dealing, hijacking of sea vessels or aircraft, human smuggling, etc.

It is difficult to apply this characteristic in the modern sense because a major complication was that there was no international law overseeing the trading practices among different regions, and certainly none for the defining of international crime, at least not as we understand it today. The first governing body of any kind were the “fishing admirals” who settled fishing disputes in Newfoundland (Conlin, 2009, p. 11) before the first Vice-Admiralty court “was set up at Trinity in 1615” (Horwood, 2011, p. 13). With international law “at the time, still in its infancy, as evidenced in the Law of Nations (Dickinson, 1952, p. 26-27), the Letter of Marque was considered an international document, but only for the government that it was issued under, and only recognized in conjunction with other Letters of Marque issued by those nations that had trading agreements under the Law of Nations (Dickinson, 1952). Since North and South America were not treated as independent entities, but looked upon as ungoverned territories to be exploited and/or traded with, imperialist ambition played large role in the location of the territory where the privateer made his living and, as a natural consequence, virtually all of his hunting grounds were undertaken far from Europe, and therefore his actions could be categorized as international in scope. Later, as English colonial efforts increased, some privateers were permanently based in the Americas, but they were still technically categorized as international as they were still governed from England (Marsters, 2004, p. 6), and only preyed upon foreign vessels.

10. Secrecy: No

This point refers to the need for an OCG to protect their activities, interests, and participants from detection and prosecution by law enforcement. “Organized crime syndicates safeguard their secretive nature through violence, intimidation, insulation, corruption, as well as rules and even established codes of conduct” (Schneider, 2017, p. 91).

Secrecy can only be applied here as far as the privateer would go to conceal his activity from those foreign vessels he preyed upon and their governments, but did not include his own government, unless he was breaking the agreement he was bound to under his Letter of Marque. While this did happen in some instances with privateers smuggling cargo into port rather than declaring it to the Vice-Admiralty court (Conlin, 1998, p. 89), it was not a normal occurrence.

Commercial:

11. Profit-oriented criminal activities: Yes

The main goal of the OCG is to make a profit, therefore all criminal activities performed by that group are profit-oriented or support profit-oriented activities (Schneider, 2017, p. 92).

Classification of this characteristic is complex because, while we who live in the modern era consider the activities of the privateer to be crimes, those activities were legalized and mandated, albeit with strict regulations, in the later period (Conlin, 2009, p. 18). Each privateer captain and his crew, along with the owner (if there was one), targeted enemy vessels, capturing their ship and cargo by using various means of violence and intimidation, including plundering villages and kidnapping (Conlin, 2009, p. 14-15), torture (Marsters, 2004: 6, Horwood, 2011: 18), and even murder (Conlin, 2009: 9, Horwood, 2011: 18).

In addition, there was a distance between what the monarchy mandated through official means, and what subversive intentions were carried out through that mandate, that is, to weaken the economy of an opponent in wartime by using public measures rather than official ones. “Maritime merchant interests were integrated with the political elites, so overall, their demands were of government concern” (Mabee, 2009, p. 146). They were also employed to combat the piracy that threatened their own economy (Mabee, 2009, p. 46). In this way one could argue that

technically the monarchy was indulging in criminal practice by employing such tenuous means that they could be considered illegal, or at least acts of war in themselves (Horwood, 2011, p.8). Even though Privateering was technically legitimate there was a lawlessness that pervaded and permeated the business due to there being no real way to completely ensure that they were upholding the laws and regulations set out by their Letter of Marque (Conlin, 2009, p. 9).

In sum, a privateering crew were all sailors and specialists of some kind, bound together by the Letter of Marque they sailed under and that commonality ensured they were all in the same place at the same time for one purpose: to make a profit.

12. Serious illegal acts: Yes

“The illegal acts committed by criminal organization are considered serious in the sense that they exact significant harm on victims and society as a whole” (Schneider, 2017, p. 92).

For example, drug trafficking, human trafficking, extortion, and fraud.

Each act that the privateer engaged in were serious ones in that they undoubtedly exacted harm on both their victims and society (Marsters, 2004, p. 12). Targeting ships, boarding a ship, and using violent means to capture that ship and steal its cargo are all serious crimes, as is kidnapping, press-ganging, and in some cases, murder. Some privateers also targeted townspeople in coastal villages, taking supplies, and even burning villages, such as when Buccaneer Samuel Argall attacked and burned Port Royal in 1613 (Conlin, 2009, p. 15).

As already mentioned, using the privateer as a subversive means in weakening the economy of the enemy in wartime served to also weaken an enemy's ability to make war. These actions resulted in England gaining territory and mastery over trade routes and luxury goods, significantly harming all levels of the society they targeted by using these means.

Sometimes privateers even disregarded their commission by falsifying their Letter of Marque, or refusing to declare a prize, opting instead to smuggle it into port. Of this, Dan Conlin says that “some of the privateers, tired of waiting for the bureaucratic red tape in processing cargo, which sometimes took years to untangle, would resort to smuggling the cargo into port instead of declaring it” (1998: 89).

13. Consensual and predatory crimes: Yes

A consensual crime is one where no victim exists; that is, two or more individuals willingly engage in an illegal commercial transaction” (Schneider, 2017, p. 92). For example, drug trafficking, or gambling, prostitution. “Predatory crimes are those in which a victim suffers a direct physical or financial loss” (Schneider, 2017, p. 92). For example, human trafficking, extortion, or currency counterfeiting.

The business of privateering was built upon actions that can be classified as predatory. Stalking foreign merchant ships with the sole purpose of hijacking it, stealing the cargo, and sometimes even the ship (Conlin, 1998, p. 88), is predatory. Of course, using violence and intimidation is also predatory.

Classifying other actions of the privateer during his course of business as consensual is also possible, but doubtful. Some writers like Horwood allude to the average sailor escaping being pressed into the navy by willingly being pressed into privateering (2011: 16), but no evidence was found definitively supporting this point.

14. Multiple enterprises: Yes

Many OC groups participate in more than one type of profit-oriented activity and this can include legal activities in addition to illegal ones.

Some privateers owned another legitimate business at the same time, such as Enos Collins, Simeon Perkins, or the Kirke brothers, which was almost a given since the privateering class was made up of merchants. It was the owner/merchant who carried the expense as well as the risk in outfitting a privateering vessel. The risk was worth it, and the payoff was good, if one was successful, because it imported much more than it exported, which led Conlin exclaim that “privateering was easily understood in a mercantilist age” (1998: 79). Mercantilism is the belief that the economy grew if the businesses at home prospered without any goods or money leaving town, and the prize money that entered the town only added to the wealth. In that sort of mindset or worldview it made sense that plundering and pillaging those that rightfully exploited nations rich in trade goods was a good business decision on the part of the privateer, and a good tactical one on the part of the state.

15. Monopolistic ambitions: No

The ambition or attempt by an OCG to monopolize the sale of a good or service, or the sale of a good or service in a particular location. In the course of attaining this goal, the OCG will employ means such as threatened violence, violence, or a corruptive influence on government or union officials (Schneider, 2017, p. 93).

It would have been impossible to gain a monopoly either in any of the geographic areas Maritime privateers sailed in, the privateering industry as a whole, or a combination of both. Some privateers owned more than one ship, but that did not at all mean that it was the privateer’s intention to gain a monopoly in the privateering business. Furthermore, an owner of a privateering ship would have no real ambition to gain any sort of monopoly because outfitting a ship was very expensive due to the need for cannons, guns, and extra men aboard (Hillman & Gathmann, 2011, p. 740) and obtaining a Letter of Marque was not guaranteed (Marsters, 2004,

p. 6). The uncertainty in the combined risks in undertaking even one commission meant it would likely not be feasible to attempt to hold any sort of monopoly in the privateering business. For example, outfitting a ship, and then sailing to a destination (and back) took a lot of time, and money. Even finding a ship to prey upon that held cargo that would make the gamble profitable, and it *was* a gamble, as Simeon Perkins found out when his newly outfitted vessel, the Charles Mary Wentworth, failed to capture a prize, and as a result he suffered major losses (Horwood, 2011, p. 135). There was no way to know what type of harsh weather may be encountered, or heavily armed foreign naval vessels might be protecting the waters surrounding the coasts of a commissioned area. There was no way to know if one would encounter and engage in combat another privateer ship. Even naval vessels from one's own country were competition in foreign waters (Marsters 2004, as cited in Kert, 1997: 80). There could be heavy losses of life due to sickness, disease, combat, or even mutiny.

All of the above examples of risk would most certainly prevent a privateer from seeking to obtain a monopoly over a business filled with such uncertainty and risk.

16. Operations tactics that support commercial activities: Yes

“While most organized crimes directly generate revenue, others are carried out to...support the production, distribution, and marketing of its products and services” (Schneider, 2017, p. 93). These tactical activities may include violence, corruption, money laundering, intimidation, intelligence gathering, and counter-surveillance.

Every action undertaken by a privateer in the course of a commission was geared toward obtaining stolen cargo that would later be sold for a profit. Operations tactics include activities undertaken both before and during the commission, and where deception, intimidation, and

violence may also be used. In this point the commercial activity is the sale of the cargo, and every other action the privateer engages in would be in support of that.

Before sailing, some examples of operations tactics used would be petitioning for a Letter of Marque, outfitting a ship with supplies and arms, recruiting crew members both through advertising and press-ganging men into service.

Deceptive practices undertaken during the course of their commission would be preying upon foreign merchant ships in order to steal their cargo, disguising one's ship as a merchant vessel, or lying in wait for a merchant vessel to pass.

Intimidation tactics used by privateers would be aggressively pursuing a merchant ship, running up a "Red Jack" flag (Conlin, 2009, p. 18), or firing off a warning shot. Examples of violent tactics used would be engaging other ships in combat, whether they be merchant, pirate, naval, or other privateers. Boarding a ship, perpetrating violence on men from that captured vessel. Some of the most brutal acts documented were those done by American privateers during the American Revolution and the War of 1812. The Americans wandered up and down the whole of the East coast from Saint John, N.B. to the fishing villages in Newfoundland, looting and burning homes and shops, as well as burning fishing vessels and ships along the way (Conlin, 2009, p. 19-20).

Behavioural:

17. Chronic and serious offenders: Tentative Yes

A chronic or serious offender is someone who is "habitually engaged in committing a variety of (serious) criminal offences" (Schneider, 2017, p. 94).

Classification on this point was not made in considering that a privateer obtained more than one Letter of Marque or commission, and therefore would be considered a repeat offender,

but instead classification depends on only those who sailed under a Letter of Marque *and* as a pirate during their career. When the Treaty of Utrecht was signed in 1713, it brought peace, and unemployment to the hundreds of privateers that roamed the seas, and thus the Golden Age of Piracy began (Horwood, 2011, p. 91-92), and so did the need to suppress them. In the age of the Buccaneers, the easy shift from privateering to piracy was tolerated with “little consequence as long as they were successful” (Conlin, 2009, p. 9). Some, like Peter Easton and Sir Henry Mainwaring obtained a pardon, some did not. Some survived with their head, and some, like Sir Francis Drake, did not. Men like Edward Teach, who were lured over by greed, to sail under a pirate flag during the course of their career sometimes paid the price with their lives during their “evil course” (Conlin, 2009, p. 13).

The point is, even though they may have been a product of their time, these men could be classified as chronic and serious offenders by displaying a lawlessness that cannot be interpreted in any other way when they chose to fly a pirate flag.

18. Rationality: Yes

“Criminal organizations are structured rationally to maximize their revenue generating function” (Schneider, 2017, p. 95). Rational Choice Theory states that offenders make rational choices in their decision to commit crimes. Organized crime represents the most rational form of criminality, which, like legitimate businesses, responds to the most rational institution in capitalist societies: the law of supply & demand. Even violence is used rationally: to eliminate competition and carry out those offences that would support generating a profit (Schneider, 2017: 95).

Rationality was behind each instance a privateer obtained a Letter of Marque for the sole purpose of preying upon and capturing ships with intent to steal its cargo and sell it for a profit.

Rationality is also deciding to pursue this course, even *in* wartime, and then justify the violence and intimidation involved as being done for reprisal for one's economic loss, especially when those preyed upon were not *personally* responsible for his loss and suffered harm as a result of it. After all, the common foreign man had little to do with the imperialist ambition of European nations, and as Harold Horwood pointed out, a privateer's victims considered him a pirate, or at least a criminal (2011: 18).

19. Subculture norms/contempt for civil society: Yes

Many OCG will pattern their learned behaviour based upon subcultural norms and values that are diametrically opposed to the conventions and rules of civil society (Schneider, 2017, p. 95-96).

Though the privateer's commission was technically legal, rational, and justified when he sailed under a Letter of Marque, with the state having condoned the practice, his actions must be classified as being diametrically opposed to those rules and norms valued by society. The reason being is that there is evidence that his own countrymen did not agree with the nature of his business, calling it "legalized piracy" (Marsters, 2004, as cited in Kert, 1997: 3). Also, the privateer's actions are undoubtably harmful, causing much suffering (Marsters, 2004, p. 12) and the people he perpetrated them against could be regarded as nothing less than victims (Horwood, 2011, p. 18). Even the practice of press-ganging, though technically legal (Horwood, 2011, p. 13), was perpetrated against one's own countrymen, therefore the argument that any harm suffered was solely against the enemy of the state, does not reflect the reality. Finally, the Declaration of Paris abolished privateering in 1856 (Kert, 1997, p. 53) which says, to me, that if it was truly justified in the eyes of society, any society, then it would have continued on.

20. Sophistication: Yes

It is the level of sophistication that separates organized from unorganized crimes. It denotes a level of complexity in its operations that would not be used by a smaller, disorganized, or local street gang. The utilization of technology, extensive planning, a large number of people, and a wider area of distribution or business also imply a high level of sophistication (Schneider, 2017, p. 96-97).

There was a high level of sophistication in outfitting and running a privateering vessel because it was a major endeavor usually only undertaken by “rich merchants” (Horwood, 2011, p. 18). It required extensive planning, a large amount of investment, including money, manpower, time, and skill, but providing an exact cost is difficult since the cost of “outfitting a privateer depended on how much time and money owners and backers were willing to invest” (Kert, 1997, p. 81). Specialized skills such as the ability to captain a ship, make war, and the complicated navigation involved in sailing long distances, finding a prize, and sailing home again required a level of sophistication that barred much of the general public, or even some trading merchants from participation in the business of privateering, especially with such a high bond required (Horwood, 2011, p. 164) that left no room for doubt that it was a complicated and “dicey” endeavor (Kert, 1997, as cited in Rediker, 1987: 61).

21. Non-ideological: Yes

“Organized crime syndicates are not motivated by political ideologies, religious dogma, or a desire for social change. Their goal is the accumulation of money and other material benefits” (Schneider, 2017, p. 98).

While one could argue that the politics of the issuing state or monarchy may have placed privateering activity under the umbrella of a distinct ideology, but it remains that the individual privateers and their crews were in business for purely economic reasons, and not religious or political ones. Of this, Marsters writes that privateering “was a way for European nations to increase their military strength in an economical fashion” (2004: 6), in other words it was “the merchant’s way of waging war” (Marsters, 2004, as cited in Kert, 1997: 80).

22. Rules/regulations/code of conduct: Yes

Control systems begin with a set of values that define what is expected in terms of personal and group behaviour. “Rules are a control mechanism that regulates relationships within the criminal group and between the criminal group and the outside world” (Schneider, 2017, p. 98). Even though an OCG technically operates outside of legitimate business in society, they must still use some sort of governance to ensure they run in an efficient and profitable manner.

No major undertaking that can be classified as having a high level of sophistication would be possible without being governed under some form of rules or regulations. In the case of a privateering vessel the major form of regulation it sailed under was the Letter of Marque. According to Appendix 1.3, the document set out exactly what the mission is, who this document and mission was issued to, what the name of the ship was, how many men were to be aboard, how many guns and what ammunition would be aboard. The ship’s owner was also required to put up a monetary bond before they could receive their Letter of Marque, which would be lost if the privateer broke any of the rules while he was out at sea. It also stated when the commission was to begin, who their target was (and was not), where they could sail in order to intercept that

target, and what parameters or borders they could work within. The document also stated what items or people were allowed to be included in that mandate for seizure.

The Letter of Marque also served as an intelligence gathering mission in that it instructed the named privateer to keep a journal of his exploits. The journal was to document what prizes he took (the ship name), the nature of the cargo, the value as near as can be judged of that cargo, and the date and place each prize was taken. In addition to this the privateer was also instructed to judge the “situation, motion, and strength of the Americas” as well as any other intelligence he can obtain. He was to then inform the Secretary of the Lords of his account of the above, and if possible, keep in correspondence while he is away.

Any rules and regulations aboard ship likely followed the much the same military hierarchy as a navy ship with the captain being the head, the first mate his second, but also “mariners, soldiers, gunners” (Horwood, 2011, p. 13) and those who kept the ship running smoothly in practical ways such as the cook or cabin boy (Kert, 1997, p. 91).

23. Discipline: Yes

Like rules and regulations, discipline controls the misbehaviour of those employed by an OCG, and threat of it serves to prevent infractions. “Disciplinary action can include removal from the organization, demotion, physical beatings, and even death” (Schneider, 2017, p. 100).

Privateering in Atlantic Canada was not heavily regulated, and thus disciplined for infractions pertaining to his Letter of Marque, or commission, until 1615 when the first Court of Vice-Admiralty was set up at Trinity (Horwood, 2011, p. 13). Before that time, almost complete lawlessness prevailed, except for the position of “fishing admiral” (Conlin, 2009, p. 11), who was simply the first captain to arrive in Newfoundland for the fishing season. It was not an

official position that was administered by any government, but simply a way for all of the fishermen to settle minor disputes during the season and had nothing at all to do with actions of privateers. Vice-Admiralty courts were set up all over British North America during the 18th century (Kert, 1997, p. 51), likely following as the number of British colonies here grew.

In later periods, the penalty for misbehaviour could be a fine, loss of the bond used to secure a Letter of Marque, loss of either the prize money from the captured cargo, or ship (Marsters, 2004, p. 6), and even imprisonment or death, such as in the examples of Sir Henry Manwayring and Sir Francis Drake. This is because the lines between privateering and piracy were so blurred that “a privateer might stray into piracy almost by accident” (Horwood, 2011, p.9).

Aboard the ship disciplinary matters would for the most part be up to the captain, but most likely followed the much the same power structure as a navy ship, though there is evidence that, when it was meted out, privateers were subject to a “harsh discipline” (Conlin, 1998, p. 85).

Conclusion

The perpetuation of organized criminal groups is fascinating, as is their organizational capabilities. Attempting to understand its nature is what has inspired so many attempts to define it. That OCC have developed and amorphized should come as no surprise, for organization is what human societies do, therefore the fascination of it must lie in the mystery. Each OCG features unique patterns of organization as influenced by many factors. Albin writes that OC must be viewed “as a vast continuum allowing for freedom of analyzing and defining a given particular criminal group as an entity in itself possessing a variety of characteristics, as opposed to a rigid classification based upon certain specific attributes” (1971: 37-38). In using Schneider’s 23-Point Taxonomy of an Organized Criminal Conspiracy, the characteristics of the

privateer were able to be analyzed in depth, providing a comprehensive view of the nature of their activities in relation to the degree of criminality that they exhibit.

The detailed historical record coupled with the 23-Point Taxonomy of an Organized Criminal Conspiracy was sufficient to analyze the business of privateering in a comprehensive manner that satisfies both definitions of organized crime (UN & Canadian), and the historical considerations. Therefore, it is this paper's conclusion that it is possible to label the privateer as an organized criminal and the business of privateering as an organized criminal conspiracy due to the overwhelming evidence in the historical record that details all aspects of the business as well as law during the time period that privateers were active.

This research was conducted with the intention of analyzing the legality or criminality of an often overlooked group: the privateers. Studying the privateer, and how his world view at the time was different from ours, and what we, from the modern era, can do with this information, is what matters to us today. Analyzing his evolution and eventual demise can inform our understanding of the evolution of organized crime, and perhaps serves to enrich our understanding of the ways in which the state apparatus can (and historically has) been manipulated and molded in times of pressure; reframing the social construct of crime and blurring the lines between security and criminality.

It seems the further we get from the lived reality of the privateers, the more "romantic" (Conlin, 1998, p. 80) the history had become. Writers of Nova Scotia's history, those contemporaries of living privateers, such as T.C. Haliburton "had almost nothing to say about the colony's private war at sea" (Sutherland, 2005) though he had served in the legislature with two of them (2005). Writing in 1867 another author, Beamish Murdoch, also neglected to mention the privateers in his historical account, and to this Sutherland speculates that the reason might

have something to do with the fact that Enos Collins, who lived until 1871, became a controversial figure (2005) due to his political views. The reason might have been less complicated, as Collins himself, when asked about his privateering days, would reply “You will observe, sir, that there were many things happened we don't care to talk about” (Sutherland, 2005). It seems as though talk about those times and, more importantly, what happened during that time was considered unseemly. Furthermore, it seems the farther from that day we find ourselves, the more the subject is treated with “romance” (Conlin, 1998, p. 80) and nostalgia.

Taken together, Conlin and Kert reveal that many familiar assumptions about the who, why, and so-what aspects of Nova Scotian privateering need to be reassessed (Sutherland, 2005), and the one area that has not been explored in depth is the how the social history of privateering developed and may have influenced the public perception of the legality of privateering. There was neither the time, nor the space to examine that subject here, though there is a lot of material available. It would be a fascinating topic for another paper.

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Appendix 1.1

RCMP 19-Point Criminal Organization Threat Assessment Attributes

Corruption	Discipline	Monopoly
Violence	Insulation	Group Cohesion
Infiltration	Intelligence Gathering	Continuity
Expertise	Multiple Enterprises	Links to other Crime Groups
Sophistication	Mobility	
Subversion	Stability	Links to Criminal Extremist Groups
Strategy	Scope	

Appendix 1.2

European Union (2001)

To be defined as a criminal organization, a conspiracy must exhibit at least six of the following characteristics (# 1,3,5 & 11 are mandatory):

1. Collaboration of more than two people,
2. Each with own appointed tasks,
3. For a prolonged or indefinite period of time (refers to the stability & (potential) durability),
4. Using some form of discipline & control,
5. Suspected of the commission of serious criminal offences,
6. Operating at an international level,
7. Using violence or other means suitable for intimidation,
8. Using commercial or businesslike structures,
9. Engaged in money laundering,
10. Exerting influence on politics, the media, public administration, judicial authorities or the economy, &
11. Determined by the pursuit of profit and/or power.

Appendix 1.3

A blank Letter of Marque

BY HIS EXCELLENCY LIEUTENANT-GENERAL Sir JOHN SHERBROOKE,

Knight of the Most Honourable Order of the Bath, Lieutenant-Governor, and Commander in Chief, in and over His Majesty's Province of Nova Scotia, and its Dependencies, vice Admiral of the same, &c; &c;

To The Worshipful and Honourable ALEXANDER CROKE, L.L.D Judge and Commissioner of His Majesty's Court of Vice Admiralty for the Province &c; &c; &c;

Whereas, by His Majesty's Commission under the Great Seal of Great Britain bearing Date the 13th Day of October in the year of Our Lord 1812, and in the 52d Year of His Majesty's Reign, the Lords Commissioners for executing the Office of Lord High Admiral are required and authorized to issue forth and grant Letters of Marque and Reprisal to any of His Majesty's Subjects or others, whom we shall deem fitly qualified in that Behalf for apprehending, seizing, and taking the Ships, Vessels and Goods belonging to the United States of America, or to any Persons being Subjects of the United States of America (save and except for any Ships to which license has been granted) and to bring the same to Judgement in any of His Majesty's Courts of Admiralty with his Dominions, for Proceedings and Adjudication and Condemnation to be thereupon had, according to the Court of Admiralty, and the Laws of Nations;

These are, therefore, to will and require you to cause a Letter of Marque and Reprisals to be issued out of the High Court of Admiralty unto _____ Commander of the ship _____ mounted with ____ Carriage Guns carrying Shot of ____ Pounds Weight and navigated with _____ men, to apprehend, seize, and take the Ships, Vessels and Goods Belonging to the United States of America, or to any persons being Subjects of France, according to His Majesty's Commission and Instruction aforesaid. And you are to keep an exact Journal of Proceedings, and therein particularly to take notice of all Prizes taken, the nature of such Prizes, the Time and Place of their being taken, the value of them as near as you can judge, as also the Situation, Motion and Strength of the Americans, as well as you can discover by the best Intelligence you can get; of which you shall from Time to Time as you shall have opportunity, to transmit an Account to our Secretary. Provide always that security be given according to His Majesty's Instructions before mentioned; the Said Letters of Marque and Reprisal to continue in force until further orders, for which this shall be your Warrant.

Given under my Hand, and the Great Seal of the Province this ____ day of _____ 18 __ in the _____ year of His Majesty's Reign.

By His Excellency's Command.

Secretary to His Excellency

Appendix 1.4

Pirates Privateers and the Navy: A Comparison

Pirates	Privateers	The Navy
Illegal	Legal	Legal: in fact, is the Law!
Stateless, answer to no one	Controlled by the state	Is the state
Works for: himself	Works for: owners of the ship	Works for: The government
Keeps: Everything	Keeps: Half the capture to crew, rest to owners	Keeps: Quarter of the capture to captain, quarter to officers, quarter to crew, the rest to the admiral
Regulated by: Hah! No one but themselves.	Regulated by special court system: The Vice Admiralty Court	Regulated by special court system: The Vice Admiralty Court
Prey: Anyone in peace or war.	Prey: Enemy ships or settlements in war	Prey: Enemy ships or settlements in war

A Final critical difference:

Get Caught as a Privateer: Prisoner of War Camp

Get Caught as a Pirate: Death by hanging followed by gibbeting

Appendix 1.5

Year	Kings and Queens	Time	Wars	Privateering Eras
	House of Tudor			
1500	Henry VII	1445 -1509	War of the League of Cambrai	1512 - 1514
	Henry VIII	1509 -1547	Italian Wars Spanish Wars	1522 - 1559 1492 - 1571
1550	Edward VI	1547 - 1553		
	Jane Grey	1553 - 1553		
	Mary I	1553 - 1558	English Sea Dogs	1545 - 1580
	Elizabeth I	1558 - 1603	Eighty Year War	1566 - 1648
			Nine Year War	1594 - 1603
1600			Dutch - Portuguese War	1602 - 1661
	House of Stuart			
	James I	1603 - 1625	Anglo French War	1627 - 1629
	Charles I	1625 - 1649	1st Dutch War	1623 - 1653
	Interregnum		Anglo Spanish	1625 - 1630
	Oliver Cromwell	1649 - 1658		
1650	Richard Cromwell	1658 - 1660		
	House of Stuart			
	Charles II	1660 - 1685	2nd Dutch War	1665 -1673
	James II	1685 - 1688	3rd Anglo Dutch Wars Against Louis XIV	Port Royal Privateers Mi'kmaq Privateers
1700	William III	1689 - 1702		1690 - 1710
	Mary II	1689 - 1694		1690 - 1760
	Anne	1702 - 1714		
	House of Hanover		War Against France & Spain	
	George I	1714 - 1727		
	George II	1727 - 1760	King George's War	Louisburg Privateers Halifax Privateers
1750			Pitts Imperial War	1743 - 1758 1755 - 1763
	George III	1760 - 1820	American Revolution Napoleonic Wars	
1800			Anglo French War War of 1812	1775 - 1783 1793 - 1812 1803 - 1814 1812 - 1815

