“Nothing Material Occurred”: The Maritime Captures That Caused Then Outlasted the United States’ Quasi War with France

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“Nothing Material Occurred”:
The Maritime Captures That Caused Then Outlasted the United States’ Quasi War with France

A Thesis Presented
by
EMMA WINTER ZEIG

Submitted to the Graduate School of the
University of Massachusetts Amherst in partial fulfillment
of the requirements of the degree of

MASTER OF ARTS

September 2019

History
“Nothing Material Occurred: the Maritime Captures That Cause then Outlasted the United States’ Quasi War with France”

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ABSTRACT

“NOTHING MATERIAL OCCURRED”: THE MARITIME CAPTURES THAT CAUSED THEN OUTLASTED THE UNITED STATES’ QUASI WAR WITH FRANCE

SEPTEMBER 2019

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This thesis examines the French maritime seizures during the eighteenth-century US Quasi War with France (also called the half war, or the United States’ undeclared war with France), encompassing events on both sides of the Atlantic Ocean, in France, the United States, and the Caribbean, particularly Haiti. The analysis focuses on the captured ships, telling the stories of seamen who feared for their lives and merchants who lost their ships. This point of view allows the thesis to explore an area of the Quasi War that are less documented in other histories: how civilian participants experienced violence and the indifference of governments that valued property over people. The Law of Nations had a certain amount of ambiguity when it came to captured crews. However, the questionable legality of French seizures and the system of decrees created to sustain them fostered an environment designed create situations where those in the maritime trade lacked credibility when they documented their dangerous situations. By examining seizures that chiefly took place before the more commonly considered date of the conflict (1798). This thesis will attempt to show how extending the timeline of the war allows for a narrative centering the experience of the seizures, and focusing on more than just the political class. Drawing on newspaper articles, legislative records, court records and other
judicial records, as well as letters, and family papers, the thesis argues that while no single seizure was a defining event for the country, many were defining events for the individuals involved, and as a whole they constituted the foundation to the conflict. Concentrating on the seizures will not only reveal new perspectives on the Quasi War, but also providing context to other scholarship on the war, where the seizures are less fully explored. Humanizing the Quasi War is important, both because these seizures are an infrequently explored area of scholarship, and because understanding what the conflict meant to everyday Americans makes it easier to understand why it had meaning on a larger scale.
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INTRODUCTION

Captain Jonathan Story and John Colhoun were sitting down to dinner on
*Oracabissa* the as the sun set on an autumn evening in 1797, when a seaman ran into the
room to inform them that they were about to come under attack. That the ship would be
assaulted just as Colhoun, sent by the British Consul in Charleston, had brought them
fresh provisions, was typical of the luck that the *Oracabissa* had been experiencing
during its journey. High winds during a storm had destroyed two of the British ship’s
masts, and even as it sat in Charleston harbor the crew had to constantly pump out water
to avoid sinking.\(^1\) The crew was exhausted, their pilot was too sick to navigate the ship,
and now, the seaman told Story and Colhoun, they were about to be attacked by a
privateer.

Even in their depleted state, the crew of the *Oracabissa* wanted to fight back.
They wanted to fire first, even though they did not know the country of origin of the
mysterious schooner stopped a short distance from them.\(^2\) The country of origin
mattered. A privateer was a ship that raided other ships, a job description that meant they
were sometimes derisively called pirates. However, where a pirate had the freedom that
comes with lawlessness, a privateer had security that stemmed from operating within the

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\(^1\) “Testimony of John Colhoun,” in *Message from the President of the United States, Inclosing [sic] a Letter to Him from the Governor of South Carolina, Accompanying A Number of Depositions of Witnesses to Several Captures and Outrages Committed within and near the Limits of the United States by a French Privateer, called the Vertitude or Fortitude; and also Copies of certain other Depositions relative to the same subject, transmitted by The Collector of the District of Charleston* (Philadelphia: Joseph Gates, 1798), 11.

\(^2\) Ibid.
law. Privateers were bound to one country, with a mission to attack its enemies, and were forbidden from harming their allies, unless those allies betrayed the country the privateer served. No testimony survives to indicate how the crew of the Oracabissa knew that the schooner they wanted to attack was a privateer. Maybe it was the lack of a national flag, or perhaps it was the way the schooner stopped so close to the Oracabissa without hailing her, and just sat watching the mostly mast-less, leaking ship like a predator stalking a wounded animal. Whatever malevolence the crew saw in the schooner’s behavior was invisible to Colhoun. He counseled Story not to fire, and Story held back, but brought out a cannon just in case.

Colhoun left the Oracabissa to return to Charleston, but decided to take a route close to the unknown schooner in an attempt to discern its mission. While being rowed under its stern in a narrow whale boat, Colhoun called up to the schooner’s crew, and asked where they were from. A voice answered that they were from Savannah, and that Colhoun should come on board. Colhoun seems to have been suspicious of this story because the supposed Georgian had answered in very poor English: after hearing his

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3 Though privateers were armed private citizens controlled by the government, they were not the equivalent of the type of private military forces that one might be familiar with today. For a discussion of the distinction in a present-day context, see Christopher Spearin, “Promising Privateers?: Understanding the Constraints of Contemporary Private Security at Sea,” Naval College War Review 67, no. 2 (Spring 2014). Spearin argues that there were similarities between privateers and contemporary military vessels in terms of technology, but that part of the reason that privateering fell in popularity was that military technology began to progress at a speed that made it cost-prohibitive for private investors. Moreover, Spearing spells out that while sovereigns of nations that used privateers could provide codes of conduct and enforce them, ultimately privateers did not answer to the government, but to their employer. Therefore, they would often let economic rather than political considerations guide them in their captures.

4 “Testimony of William Minott” in Message from the President of the United States... Charleston (Philadelphia: Joseph Gates, 1798), 15.
voice, Colhoun refused to board the ship. The voice then asked if he was a ship’s pilot, and inquired about the Oracabissa. Colhoun knew that the men he had just left on the Oracabissa were in trouble since the voice had confirmed that the unknown ship was interested in them. He tried to turn his boat around to warn Story and his crew. The schooner weighed anchor and attempted to cut him off. Colhoun called out to the British ship that they were in danger, and the schooner fired on him then began to chase him back to shore. Colhoun lost the schooner by navigating into shallower water, but the Oracabissa’s troubles were just beginning.5

Once they lost Colhoun’s whale boat, the schooner turned to the Oracabissa. The schooner sent over an officer and a few men armed with pistols and cutlasses, who quickly took control of the Oracabissa, then ordered Story to return to the schooner in their boat. With the captain as a prisoner and the ship held hostage, the schooner’s crew proceeded to loot the Oracabissa. They took the cargo of rum and sugar, and even the sails and rigging, stopping only when their own ship was too full to fit any more cargo. It took the entire night. The next morning, the privateers ordered the entire crew of the Oracabissa onto their ship, and then set the Oracabissa ablaze. Story repeatedly asked the captain for his name and for the name of the ship he and his crew were held prisoner on, but was met with silence. The only information that the captain of the schooner would give Story was the reason why the ship had to burn: a British frigate had burned another vessel under this captain’s command, and he wanted to take a British ship in return. Story managed to learn just one additional fact when a member of the schooner’s

crew let slip that the schooner who had captured him was a privateer controlled by the French. 6

The story of the Oracabissa would not be categorized as a battle in the undeclared war that that is commonly known as the Quasi War between the United States and France at the end of the eighteenth century. However, it is a prime example of the forces that governed that conflict. The clash was between a British ship and a French privateer in US waters. President John Adams worried that the event had serious implications. He argued that this attack demonstrated the “necessity of enabling the Executive authority of Government to take measures for protecting the citizens of the United States, and such foreigners as have a right to enjoy their peace…within these limits.” 7 Britain was an important ally, and it did not look good for the US if a brazen attack on a British ship happened in a US harbor, especially when US military aid could not be mustered in time to help. 8 The overt concern for the safety of US citizens from French privateers is more surprising. Throughout the 1790s, the French government targeted US ships for capture by privateers, through methods that were consciously of dubious legality. 9 These

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7 John Adams, “Message from the President” in Message from the President of the United States...Charleston (Philadelphia: Joseph Gates, 1798), 3-4.  
8 Charles Pinckney, “Letter from Governor Pinckney” in Message from the President of the United States...Charleston (Philadelphia: Joseph Gates, 1798), 5.  
9 Along with decrees in May of 1793 that will be discussed later in this thesis, some of the major pieces of legislation that governed French treatment of neutrals were the arret of July 1796 and the rôle d’équipage rule. All of these measures allowed French privateers to violate neutrality, and affected their trading relationship with the US. Indeed, the arret was adopted because of how much it would hurt the US, as retaliation for the US accepting the Jay Treaty with Britain, and French ministers acknowledged the rôle d’équipage rule to be a political tactic rather than a legally defensible law. The situation was serious enough that when Minister Charles Maurice de Talleyrand commissioned reports that covered the French maritime dealings with the US, not one of
methods resulted in hundreds of seized ships, but in the press they were often treated as isolated incidents, not a coordinated attack. The acknowledgment of the threat that French privateers posed to the property and physical safety of US citizens was not a position the US government arrived at easily or quickly. This thesis examines the years of petitions, protests, and captured ships on a journey toward recognition that war was already happening, and that the US had a responsibility to join in order to protect its citizens, even from its allies.

This thesis will focus, for the most part, on the stories behind the captured ships, attempting to humanize what could boil down to a list of names and numbers. Telling the stories of seamen who feared for their lives and merchants who lost their ships is important for considering the Quasi War because it is the huge potential for human loss that gave the war its stakes. At the time, these stakes were often defined on a scale of

the reports asserted that the French were acting within the law. There is an excellent explanation of the French legal position in William Stinchcombe, “Talleyrand and the American Negotiations of 1797-1798,” *The Journal of American History* 62, no. 3 (December, 1975), p. 578-81.

10 There is growing scholarship on the experience of war during this period, particularly with regard to the American Revolution. Lauren Duval, “Mastering Charleston: Property and Patriarchy in British-Occupied Charleston, 1780-82,” *The William and Mary Quarterly* 75, no. 4 (October 2018), 589-622 covers women’s experience in the occupation of Charleston during the Revolution, and Martha J. King, “‘A Lady of New Jersey’: Annis Boudinot Stockton, Patriot and Poet in the Age of Revolution,” in *Women in the American Revolution*, ed. Barbara B. Oberg (Charlottesville, VA: University of Virginia Press, 2019) looks at similar issues of allegiance and priorities on the scale of one woman’s life. In T.H. Breen, “What Time Was the American Revolution? Reflections on a Familiar Narrative” in *Experiencing Empire: Power, People and Revolution in Early America*, ed. Patrick Griffin (Charlottesville, VA: University of Virginia Press, 2017), Breen gives a good overview of how it is necessary to think of the Revolution as a lived experience (but other essays in this volume are useful for considering the topic as well). This type of scholarship has influenced this thesis, and it is hoped that discussion of individual lives during the Quasi War will add to scholarship on the experience of war.
how much property was lost, but that does not make the danger to human life posed in what could seem to be a less violent conflict any less important. Indeed, as the coming chapters will show, the recognition that French actions were putting US lives—not just US property and profits—at risk, was one of the key changes in the lead up to the US naval involvement in the conflict. No single seizure was a defining event for the country, but many were defining events for the individuals involved, and as a whole they constituted the background to the conflict. This thesis’s concentration on the seizures will not only reveal new perspectives on the Quasi war, but also give additional context to other scholarship on the war, where the seizures are less fully explored. Humanizing the Quasi War is important, both because these seizures are an infrequently explored area of scholarship, and because understanding what the conflict meant to everyday Americans makes it easier to understand why it had meaning on a larger scale.

A. **Background**

At least four decades after the Quasi War ended, a pamphlet asked what should have been a simple question: “Did War Exist Between France and the United States Between the Years 1795 and 1801?”¹¹ Under many circumstances, this question could have been answered with a “yes” or a “no,” but, as the fact that it was deemed necessary to produce an entire pamphlet on the subject might suggest, in this case, the answer is more complicated. War was never declared between the two countries during this time, but that does not necessarily mean that a state of war did not exist. The question of

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¹¹ “Did War Exist Between France and the United States Between the Years 1795 and 1801?,” Undated, Causten-Pickett Papers, Library of Congress.
whether or not the conflict that the United States and France were engaged in was really a war hinges less on what transpired between the two nations, and more on how one defines the idea of “war.” The US has, in more recent years, embarked on several wars without a formal Congressional declaration (as required by Article I, Section 8, Clause 11 of the US Constitution, also known as the War Powers Clause), but writing about the Quasi War extends this history back to the country’s earliest years. In many ways, the motivations behind keeping the Quasi War undeclared were different than those in conflicts such as the Vietnam or Iraq Wars. Unlike in later years when undeclared wars gave more war powers to the executive branch, the Quasi War had a broad base of support in congress, and congressional representatives considered themselves to be in control of the conflict. The lack of declaration in this case was not meant to change the

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13 Charles A. Lofgren “War-Making Under the Constitution: The Original Understanding,” The Yale Law Journal 81 no. 4 (March, 1972), p. 701-2 has a brief but telling discussion of the undeclared nature of the Quasi War. In it, he writes about the balance of power between the legislative and executive branches, as well as arguing that the supreme court viewed the conflict as having the same properties as a declared war, even though no declaration was issued. Kenneth B. Moss, “Defining the Balance in a Revolution and the Constitution” in Marque and Reprisal (Lawrence, KS: University Press of Kansas, 2019): 203-5 also discusses the court rulings that gave the conflict more official standing as a war, as well as a brief note on the ambiguities affecting diplomatic relations. By their nature, both of these works are focused on the legal elements of the
balance of constitutional power at home, but to smooth over relationships abroad. France was a very important ally for the US, and never declaring the Quasi War helped keep the relationship from completely deteriorating.

Without a declaration, the dates historians assign the conflict are relatively fluid, particularly with regard to its beginning. The pamphlet mentioned above puts the start date in 1795, but the dates most often given to this conflict are either 1797 or 1798 to 1801. 14 1798 is the year when the US navy got involved, but the French armed forces had been involved in stopping US ships for years. This thesis will look at the conflict beginning in 1793, not 1798, since the rationale behind the seizures was both developed and deployed in that year. A longer timeline for the Quasi War puts the emphasis on the ship seizures rather than the naval involvement as the driving force behind the conflict. Focusing on the seizures is important, because it was the volume of these seizures impacting US trade that lead to US military engagement. By 1798, French privateers and

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14 These dates are the ones used in the most frequently referenced secondary sources on the subject. Gardner Allen began his chapter “The Opening of Hostilities” in 1798 in Our Naval War with France (Hamden, CT: Archon Books, 1967) and marked a difference in the claims that happened after 1801. Alexander DeConde offered a slightly different range of dates, that he titled his book The Quasi War: The Politics and Diplomacy of the Undeclared Naval War with France, 1797-1801 (New York City: Scribner, 1966), but Michael A. Palmer used the dates as 1798-1801 in his book Stoddert’s War: Naval Operations During the Quasi War with France, 1798-1801 (Annapolis, MD: Naval Institute Press, 2000). The US government document series (cited in Note 155) on the subject also lists the conflict as beginning in 1798, though it places the ending in 1800.
naval ships had already stopped, boarded, and confiscated property from over 300 US ships.  

French seizures were sanctioned by a series of laws starting in 1793 and continuing through the 1790s. One of the most controversial allowed confiscation of the entire cargo if the ship did not have a “rôle d’équipage” or a list of all of the sailors, including their name, rank, and hometown. This was information that a merchant would have written down, but the specific document was not something that American ships typically carried with them on their voyages. Some American merchants caught on and outfitted their ships with the correct paperwork. However, there were other decrees designed to provide a pretext for seizure that the French could fall back on, such as one

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15 “Letter from Fulwar Skipwith to James Monroe, Minister Plenipotentiary of the US.,” October, 1794 in Report of the Secretary of State...Last, (House of Representatives, 1797), 12.

16 One of the earliest sources on the rôle d’équipage is George A. King, “The French Spoliation Claims,” The American Journal of International Law 6, no. 2 (April 1912), p. 359-380 who wrote about how the practice was used to maximize the amount of claims that could be made: Alexander Sidney Lanier and J.H. Toelle used King’s points, and even his exact language in their future scholarship. There are also some more recent papers that mention it, such as Gregory E Fehlings, “America’s First Limited War,” Naval War College Review 53, no. 3 (Summer 2000), p. 120 who took the position that it would have been illegal for the French to even require this type of documentation and that and that it was only required as an excuse to loot ships, and William Stinchcombe, “Talleyrand and the American Negotiations,” The Journal of American History 62, no. 3 (December, 1975), p. 581 who wrote that the French merely saw the rôle as a political tactic, not a sincere requirement for safety. It is possible that there are more articles in the early 20th century that touch on the claims of restitution from those who lost money during the Quasi War than at any subsequent time because at this point the payments from the US government to settle this debt were still ongoing, and so the topic had a very clear relevance to issues that concerned US citizens at the time. Newer work, not based on King, like Fehlings and Stinchcombe, tends to mimic his arguments about the motivations of the rôle d’équipage, but include more specifics and to regard it as more of a legislative tactic, and less of the tool of a corrupt court system that King described.

This scholarship is important to developing the history of the claims, but it is also important to look at how tactics like the rôle d’équipage affected the experience of the seizure on an individual level, as well as on a macro one.
that declared that any American ship carrying cargo from a country that was the enemy of France would have their entire cargo seized. This proved to be a large problem, particularly because trade with Britain, France’s old enemy, was vital to the American economy.

US ships were subject to seizure by privateers representing the British, Spanish, French, and Barbary State governments for decades, so the uptick after the French decrees of the 1790s was not as noticeable as it might have been. Privateers were governed by the Law of Nations, a system of international law that was meant to ensure fair trade, and part of that trade involved taking as prizes ships that had either broken the law or belonged to an enemy nation. In practice, the Law of Nations was difficult to enforce, and some aspects of it were more frequently enforced than others. The French’s efforts in the 1790s differed from the regular patterns of privateering in a few ways. In addition to seizures by privateers, more American ships were stopped by the French Navy. More of the ships were stopped on spurious legal claims, and more were seized for small crimes that were not normally prosecuted. In truth, the entire situation was somewhat irregular because both the privateers and naval vessels were actively pursuing the ships of a neutral nation.

Despite these military (or military-esque, in the case of privateers) escalations, many historians place the direct cause of the Quasi War in diplomatic conflict. As

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tensions between the two countries grew, the US and France attempted to enter into negotiations to stop the seizure of US ships and mend the relationship. However, the reception that the US ambassadors got was worse than they expected. The French negotiators demanded that President Adams apologize for remarks he had made alleging that the French had been illegally stopping American ships; they also demanded that the US government provide over ten million dollars in loans to France (that number is not adjusted for inflation), and hundreds of thousands of dollars as gifts for the French ministers themselves. Also, these “gifts” had to be presented as spontaneous presents from the US, rather than as a response to a French demand. These demands quickly led to the breakdown of negotiations, and the ambassadors’ return to the US.  

This failed negotiation, known as the XYZ Affair\(^\text{20}\) propelled the US to begin military engagement with France.

### B. Historiographical Context

The Quasi War is often depicted as a mostly diplomatic conflict with a late-arriving and small-scale military component. It is sometimes approached obliquely, in histories of the time period or major players in the conflict. Even when the Quasi War is not mentioned by name, however its influence can be felt in works on historical

\(^{19}\) Allen, *Our Naval War with France*, 23-7.

\(^{20}\) The ambassadors were not allowed to meet with the French in person, and so sent envoys to negotiate for them, and referred to these envoys as X, Y, and Z.

Many books mention the XYZ Affair, but the major sources are William Stinchcombe, *The XYZ Affair* (Westport, CT: Greenwood Press, 1980) and Harold Cecil Vaughn *The XYZ Affair 1797-98: The Diplomacy of the Adams Administration and an Undeclared War with France* (New York: Franklin Watts, 1972). Both books are primarily diplomatic histories – more recent works such as Carol Berkin, *A Sovereign People: The Crises of the 1790s and the Birth of American Nationalism* (New York, NY: Basic Books: 2017) have used the XYZ Affair to write about domestic policy and the Federalist hold on power in the 1790s.
developments that the conflict wholly or partly inspired. For instance, the Quasi War cemented the position of the Navy as a permanent part of US society. It was behind the creation of the Logan Act,\textsuperscript{21} which is still a headline in twenty-first century news relating to the prosecution of former National Security Advisor Michael Flynn.\textsuperscript{22} The Quasi War

\textsuperscript{21} After a Quaker minister attempted to independently negotiate a treaty with France, Congress passed this law to ensure that any future conflicts were not deluged with amateur pacifist negotiators.


The Logan Act also remains a popular topic of academic discussion. For further sources of this nature, see Detlev F. Vagts, “The Logan Act: Paper Tiger or Sleeping Giant,” \textit{The American Journal of International Law} 60, no. 2 (April, 1966), p. 268-302, which analyzes the law from a legal perspective and suggests that it needs to be revised in order to eliminate sections that are either too harsh or “foolish.” William Nester, “Back Channels” in \textit{The Hamiltonian Vision 1789-1800: the Art of American Power During the Early Republic} (Lincoln, NE: University of Nebraska Press,2012), 138-43 that presents a more narrative recounting of the incident; see Edward T. Swaine, “Negotiating Federalism: State Bargaining and the Dormant Treaty Power,” \textit{Duke Law Journal} 49, (March 2000), 1127-1278 for a discussion of how the Logan Act has been implemented,
helped to splinter the Federalist party. The most famous Quasi War byproducts were the 1798 Alien and Sedition acts. The latter tested America’s commitment to a free press and remains a cautionary tale to this day, and the former placed limits on immigration of French citizens and set a precedent for other acts that limited immigration for specific nationalities.\(^{23}\)

The undeclared war with France marked the first engagement of the United States’ Navy after the Revolutionary War, and was a large part of why the navy was reconstituted. The notable nature of a major power’s first naval war has sometimes drawn historians into writing about the Quasi War in more general histories, such as *Seapower and Naval Warfare: 1650-1830* by Richard Harding.\(^{24}\) The history of the Navy has also informed some of the few books written about the Quasi War, Two are particularly relevant: *Stoddert’s War: Naval Operations During the Quasi War with France, 1798-1801* by Michael A. Palmer and *Our Naval War with France* by Gardner Weld Allen.\(^{25}\) Both books cover naval operations to the exclusion of most other topics

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\(^{23}\) A good discussion of this connection can be seen in James Roger Sharp, “The War Crisis and the Alien and Sedition Acts” in *American Politics in the Early Republic* (New Haven, CT: Yale University Press, 1993), as it covers the complicated political variables that came into play during the lead up to the acts.


and draw their sources primarily from documents focusing on the operations of the nascent US fleet. In this arena, Palmer has a definite advantage. Published in 1910, Allen’s book drew mostly on newspaper accounts of the battles, which means that while some of his sources are colorful, they are usually retellings. Little was published on the Quasi War in the intervening years, apart from a ten-volume set of government documents. Not until 1987 did another historian, Palmer, turn more systematically to the war. Drawing in part on these government documents, he focused more on the character of the men in the navy while Allen focused more on specific anecdotes. The ten volumes of sources themselves do push the reader in the direction of a purely naval history. The sources contain valuable information about civilian ships, but it is often sporadic. The most thoroughly documented and dynamic characters are the naval officers.

While the scholarship that focus on the conflict in a naval context definitely have the advantage in terms of availability of sources, they can often struggle to articulate the

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26 This set called *Naval Documents Related to the Quasi-War Between the United States and France* was published by the government printing office between 1935 and 1938. It includes a wide array of sources, but all focused on naval operations. It draws from the personal letters of high-ranking naval officers, and so has material that is also useful to anyone trying to construct a diplomatic or political history, since there is some correspondence between departments. It also publishes reports filed by ship. The document collection was pulled from the collection of the Office of Naval Records and Library. These volumes are one of the most accessible routes to primary sources about the Quasi War; they are held by many University Libraries (including UMass’s) and are available to browse online on the Haithi Trust. To a certain degree, this accessibility could tend to identify the period of the conflict when the US Navy was active as being the period when there were battles and attacks, even though there had been conflict for years between French military and privateers and US merchant ships. Volume 2 does contain a section on merchant ships, but it focuses on how they were armed and the battles they were involved with during the period of the conflict when the Navy was also involved.
importance of the Quasi War as a separate entity from the Navy. Accounts of the undeclared war that focus on diplomacy have a different but no less perplexing problem. The importance of the conflict is easily stated: it was the first test of the US’s major alliances and was an indicator of whether the US could negotiate on a world stage. However, placing the importance on this type of policy development makes it hard for the books to give a picture of what the conflict looked like outside of the highest levels of government without straying from the central topic. In *The XYZ Affair, 1797-98: The Diplomacy of the Adams Administration and an Undeclared War with France* Harold C. Vaughn offers a history of the complicated diplomatic dealings that led the US and France into the undeclared war, while *The Quasi War: The Politics and Diplomacy of the Undeclared Naval War with France, 1797-1801* by Alexander DeConde spans the entire conflict.27 The latter shares much of the former’s focus on diplomatic negotiations but adds more detail in terms of US domestic policy.

Many of the other books that devote some space to the Quasi War but do not focus on it are biographies either of John Adams or Alexander Hamilton. Most of these books share an emphasis on the diplomatic, political, and military aspects of the Quasi War. This type of study typically does not have as much material on the seizures that caused the conflict as they do on the political maneuvers during it, which makes sense, since the political world was where the men who are the focus of the books had the most influence. In *Alexander Hamilton*, Ron Chernow mentioned the seizures, but primarily

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so that he could place the start date for the Quasi War on the day that Alexander Hamilton became particularly enraged at one specific seizure (in 1798). *The Hamiltonian Vision* by William Nester went a bit deeper, as he looked at some of the economic effects the seizures had on the US economy.\(^{28}\)

Though many Adams and Hamilton biographies share the same type of approach to the Quasi War, there is a great deal of variation in how much importance the authors ascribe to the conflict and how much space within the book is spent on the topic. William Nester’s study, *The Hamiltonian Vision* devoted two entire chapters to the Quasi War, but in *Alexander Hamilton: a Biography*, Forrest McDonald’s discussion of the Quasi War was mostly confined to the footnotes. In *Passionate Sage* Joseph Ellis emphasized the importance of the conflict, calling it “the dominant event of Adams’ presidency,” but in John Ferling’s *Adams: a Life* and James Grant’s *Party of One* it was pushed to the background, and both men largely got their material from DeConde.\(^{29}\) *John Adams* by Page Smith included a detailed accounting of the conflict from Adams’ perspective, but did not present it as part of an argument.\(^{30}\) The conflict shows up even in the most popular biographies of these two men. In *John Adams* David McCullough also drew much of his interpretation of the Quasi War from DeConde’s work. Ron Chernow’s treatment of the Quasi War *Alexander Hamilton* was based on more varied

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\(^{30}\) Also worthy of note is Nathan Perl-Rosenthal, “Private Letters and Public Diplomacy: The Adams Network and the Quasi War, 1797-1798,” *Journal of the Early Republic* 31, no. 2 (Summer 2011), p. 283-311 which analyzes the conflict through the lens of how Adams received the information he used to make his decisions.
sources, and was less focused on interpreting the Quasi War as its own entity than McCullough’s work, with more emphasis on Hamilton’s relationship to the army and to Adams. All of these books that look at the conflict through the lens of diplomatic relations and domestic politics focus more on the historical figures that are already familiar, like Hamilton and Adams, and spend less time of the impact of the conflict. This is natural in a biography of someone in that political sphere, but it is almost always the case that the ship seizures, the actual inciting incidents of the war, are relegated to backstory. By foregrounding less famous figures, who were closer to some of the more dangerous parts of the conflict, it is easier to get a sense of the uncertainty and violence that pervaded it. Adams and Hamilton were in a position to lose their political careers because of the Quasi War, but not their lives.

Though each of the aforementioned studies present detailed and nuanced arguments about different aspects of the conflict, French ship seizures are not their focus. This thesis will not be going into great detail about naval, diplomatic, or political history because what it can contribute is a sense of the seizures themselves: what drove them, and what it was like to experience them. The impact of the conflict can become abstracted without a sense of these seizures, that were the engine that propelled it into existence, and so I hope to add further context to the existing scholarship on this era and this conflict. A complete picture of the Quasi War no doubt includes elements of

international relations and naval power, but this work is not meant to be a complete picture. It is meant to illuminate the experience of one of the most ubiquitous aspects in this conflict, a French privateer seizure, through the eyes of the people who were most affected: the participants in the maritime industry.

This thesis owes a debt to all of the previous scholars of the Quasi War, but it will in particular attempt to build on the work of scholars of commercial history who have dealt with the Quasi War. Most of the major research on the topic does not emphasize this aspect of the conflict, but several journal articles have looked at it through the lens of trade. Like many of the works on the Quasi War, many of these are older, such as James Duncan Phillips’ 1943 article “Salem’s Part in the Naval War with France” and John D. Forbes’ “European Wars and Boston Trade, 1783-1815,” from 1938. These two authors take opposite approaches, the former telling a largely narrative local history, and the latter looking through a wider lens at how international trends affected the city as a whole.

More recent works have focused on the ways that the commercial aspects of the Quasi War interacted with the legal system. In her book *Alexander Hamilton and the Development of American Law*, Kate Elizabeth Brown discussed the Quasi War as it concerned jurisdictional issues within neutrality disputes, while in “The Charming Betsy

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33 The fact that both of these works appeared during the late 1930s and early 1940s may have had something to do with the multi-volume works of government sources coming out at the same time. Phillips did not focus on the Navy but used the Quasi War series, and Forbes drew heavily from the series of American state papers that was released in the mid 1930s.
and the Marshall Court” Frederick C. Leiner investigated how John Marshall used one specific case to try to set precedent for respecting neutral status in the midst of war.\textsuperscript{34} Another recent article “Marine Insurance in Philadelphia During the Quasi-War with France, 1795-1801” by Christopher Kingston is similar to Forbes in that he used the Quasi War as an external influence exerting pressure on a changing domestic system, but he focused intently on a more contained set of archival material.\textsuperscript{35}

Some histories do cover the ship seizures in a broader sense, as this thesis will likewise do. Patrick Crowhurst has written about French privateering both in his book \textit{The French War on Trade: Privateering 1792-1815} and in essays on the subject, focusing mostly on the French perspective. \textit{The French Assault on American Shipping, 1793-1813: A History and Comprehensive Record of Merchant Marine Losses} by Greg H. Williams is a comprehensive resource for learning more about the losses that America suffered during this period, listing hundreds of known ship seizures, along with a brief summary of each case. James Brown Scott’s 1917 work, \textit{The Controversy Over Neutral Rights Between the United States and France, 1797-1800} also covers the ship seizures, with an emphasis on the legal perspective.\textsuperscript{36}

\textsuperscript{34} Kate Elizabeth Brown, \textit{Alexander Hamilton and the Development of American Law} (Lawrence, KS: University Press of Kansas, 2017).
C. The Ship Seizures and Perspective

This thesis adds to the body of scholarship on the Quasi War by foregrounding the ship seizures and the people affected by them, offering new perspectives on the conflict as a whole. The Quasi War was bigger than it looks – it involved more people, more social classes, and took place over a larger territory and for a longer time than appears in the glimpses we get by looking at it through the lens of the development of the Navy or of the legislation surrounding the conflict. Placing the stories of the ship seizures in the background creates an image of the Quasi War as a game of chess, a series of diplomatic and political moves made by men who have already had their biographies written many times over: Adams, Hamilton, Jay, Talleyrand. However, their experience of the war was not the same as the overall American experience.

While this thesis cannot capture the full complexities of that experience on the scale of the whole country, it will attempt to show what the progression through the war looked like for people at the epicenter of the conflict, if not of the historical memory of that conflict. Their experience of the Quasi War was different from that of the people in power, but it was no less complex. Merchants, captains, and seamen had to navigate a system of laws that were issued in order to entrap them, making it increasingly hard to understand what their rights were and what conduct was legal. They did this with the threat of violence during seizures hanging over their head and influencing their behavior, even during a conflict that is often perceived as being less violent or having fewer casualties than others in US history. Moreover, the perspective of the maritime industry sheds a new light on how the seizures appear in the historical record, as many seizures only exist in limited or one-sided sources. At the time, this dearth of evidence meant that
many participants did not always know who to believe, and had to evaluate the trustworthiness of mariners who were their countrymen against foreign sources. In the present, it can make the exact truth of what happened during these seizures hard to know, but no less important to investigate.

Chapter 1 of this thesis focuses on what the experience of a ship capture looked like during the Quasi War, using family papers and legal documents to examine the types of experiences common among those who went through French privateer seizures. It also looks at the ways in which the maritime network assisted mariners affected by the seizures before the US government took a larger role in the conflict, illustrating the maritime experience of the early years of the Quasi War. Chapter 2 uses court records, legal decrees, and protests to examine the various legal means by which French privateers and courts justified condemning ships and cargo. During the 1790s, French governments crafted a system designed to increase the number of seizures by turning formerly legal practices into illegal ones, and promoted a narrative of victimization to justify their actions; this chapter will look at the mechanics of how this system worked. Chapter 3 follows three ship seizures in one merchant family through that family’s letters and documents, that revealing the complexities of individual seizures in a way that legal records cannot. The chapter charts that family’s progress from seeing each seizure as an isolated incident to the realization that they were at war, even if that war was not declared, a journey that much of the country was taking at the same time. Chapter 4 covers the violence of the conflict and the ways in which it changed the public perception of the war, using captains’ protests to illuminate the most common points in a seizure when a mariner could expect violence or a threat of violence, as well as the ways in
which less overt forms of violence, deliberate illness and starvation, contributed to the body count of the war. This chapter will also examine the type of sources that this thesis uses, and the degree to which they are reliable. Chapter 5 tells the story of one captain in France during the period of the Quasi War when the US government was more involved, showing how increased government involvement altered his experience.

Aside from the need for characters who are not John Adams, focusing on the ways in which the ship seizures were central to the Quasi War helps modern readers think about the Quasi War, or aspects of it, from a new perspective. Centering the seizures adds two critical elements to the overall narrative: stakes and context. It is easy when reading accounts that focus on diplomacy or naval power to forget about the day to day realities of the seizures, which detracts from the importance of the conflict as a whole. If the entire war was conducted via diplomatic correspondence, why should a reader care about the outcome? Furthermore, though no single seizure was a high-profile event, as a whole they constituted the background to the entire war. A narrative that focuses on the seizures gives context to every other retelling of the war, showing why it started, and how continual seizures maintained the war’s momentum. The main sources used in this thesis will be court records, notarized protests, and family papers. The emphasis in Chapters 1, 2, and 4 is on examining a breadth of experiences, primarily relying on court records and protests to give snapshots of a number of different seizures. Chapters 3 and 5 are intended to look at a few cases in greater detail, using personal and family papers. This is not because the breadth does not exist, but rather because utilizing these types of sources gives a more personal window onto the realities of the Quasi War that cannot be seen in official records.
Many people lost money or property, but seizures often took more than what could be listed on an inventory. For some they took away a sense of security, for others they took the faith that loved ones who ventured out on the seas would return. Seizures could have a high cost when it came to family relationships, as money lost or time away from home strained the bonds between fathers and sons or husbands and wives. The stories in this thesis are representative of this kind of loss, but they are not universal, and they shouldn’t be. The chapters with a broader lens show the Quasi War for what it was: a shared experience, even among the United States’ less notable citizens. However, it is just as important to examine letters and family papers, and to look at the emotions expressed in more official documents, for as much as the Quasi War was a national experience, it was also something individual and personal to so many of the people involved in it.

The Quasi War may be a forgotten war, but it is not a forgettable one. It is often little more than a foggy memory today not because it lacks important or exciting circumstances, but because sometimes it can lack narrative. This was even true at the time, when the ship seizures could look like a series of run of the mill disasters, rather than the beginnings of an international incident. If this thesis sometimes strays into narrative, it is not just because the Quasi War has an interesting narrative, but because that connective tissue of story can sometimes go missing in accounts that do not feature the ship seizures. What is lost is not just the story of the ordinary people caught in the middle of the conflict, but the story of the conflict itself, because the two are one and the same.
Though John Adams’ statement on the *Oracabissa* does acknowledge that the French seizures could be a potential threat to the American populace, it omits one key detail. The French threat to Americans was not theoretical— not only was it happening every day to mariners across the Atlantic and Caribbean, it had happened on October 17\textsuperscript{th} 1797, on the *Oracabissa*. Somewhere along the journey to Charleston, the pilot had fallen sick. Shadrach Turner, US citizen of Charleston, South Carolina was sent to relieve him. The privateers were also in need of a pilot and they kept Turner on board their ship even after they had deposited the rest of the crew on shore so that he could help navigate them away from the South Carolina coast. Over the course of the capture, when Colhoun and Story had asked over and over who the privateers were and where they were from, they had declined to answer. However, once all of the British mariners were off the ship and the American Turner was alone with the privateers, the captain approached him.

The privateer captain meant no harm: all he wanted to do was introduce himself. He told Turner that his name was Captain Jordan and even told Turner what region of France he was from. Jordan pulled out a piece of paper and showed it to Turner; the paper was his commission as a privateer, and named the ship *Vertitude*.\textsuperscript{37} The next morning, the privateer stopped two ships, found out they were going to Charleston, and let one of them go with Turner on board.\textsuperscript{38} All of this could have been a kindly gesture, but all of Jordan’s behavior points to someone who wanted to send a message. For the

\textsuperscript{37} This is a bit unclear – it may have actually been called the *Fortitude*, as different witnesses remembered it differently. Ultimately, both names were used in the report on the incident.

\textsuperscript{38} “Testimony of Shadrach Turner of Charleston, Pilot” in *Message from the President of the United States...Charleston* (Philadelphia: Joseph Gates, 1798), 13-4.
British, the message was one of restrained power: he burned the ship but made sure to tell them that he had a logical reason, and looted the cargo but called Story back on board the Oracabissa to show him that he had not touched the captain’s personal belongings.

Withholding his name could mean that he was worried about British ships carrying out similar reprisals to the type he had just visited on the Oracabissa, but giving his name to the American was a display of power as well. He gave Turner all the information needed to find him, yet nowhere in the report on the Oracabissa incident does it indicate that anyone was even looking. Fear was the weapon of a privateer just as much as a cutlass or a pistol, and the symbolism of setting fire to a ship off of the US coast, announcing who you are, and then making sure that the person you told gets back home to deliver the message could easily mean that Jordan did not feel like the US was capable of delivering any consequences for his actions. For years, that assumption proved to be right. The government either was not capable, or chose not to be. This is the story of how that changed.
CHAPTER I

“FOR GOD’S SAKE DON’T ADVENTURE ANY MORE THIS WAY”

“I beg you will write me a line and if possible to assist me...for I see no means to get away from this place.”

William Brooks’ request for help was an odd one. Brooks, the mate of the American schooner Ariadne was stranded not in enemy territory, but in France, the United States’ sometime ally. The person he was asking for help, his captain, John Le Basquit, had no official power with which to advocate on Brooks’ behalf, and had, in fact, been taken prisoner by the same privateers who captured Brooks. Nevertheless, Brooks felt that in a situation as serious as his own, his captain was his best, if not his only, option for aid.

When the Ariadne was captured by privateers in 1800, Brooks and a few of the ship’s crew had been taken on board the privateer and brought to France, while Le Basquit, the remainder of the crew, and the Ariadne itself, had been taken to the nearest port— Santander, Spain—to await trial. Once they had reached shore, Brooks and his fellow mariners were marched to Quimper prison, a convent deserted after the French Revolution. Another mariner confined there later remembered the high walls as well as the beatings and humiliations dealt out by guards who stole the prisoners’ small allowance of food. Anyone who complained was sent to a part of the prison called “the black-hole.”

Brooks’ did not write of Quimper, only its aftermath, but what he

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described was consistent with the description of mistreated prisoners in a disease-riddled prison. He wrote Le Basquit of the ship’s cook, as well as other seamen named Cradford, Eaton, and George “I dont [sic] expect will live for they are very bad.” Brooks made no specific request of Le Basquit other than general “assistance” but may have been asking for supplies, as he mentioned that he had “no Cloath [sic] being striped [sic] of Every thing I had.” By the time he wrote to Le Basquit, Brooks seems to have been released from Quimper with the rest of the crew of the *Ariadne* and be staying in a house packed full of American sailors who had been captured by privateers. The time in prison had taken its toll: despite being released, he did not feel as though his chances of surviving long enough to return home had improved.\(^{41}\)

Brooks began his letter by telling Le Basquit that this was “the third letter that I have forwarded to you since my stay hear [sic].” The correspondence was probably one-sided, since Brooks went on to recount the details of his imprisonment as though it would be new information for Le Basquit. The repeated requests for help could imply a certain level of trust: that Brooks believed Le Basquit had not gotten a response because he did not know of Brooks’ dire situation, not because he did not care.\(^{42}\) Brooks’ other request for help, to Pierre-Frédéric Dobrée, American Consul in Nantes, is as short as it is guarded. Dobrée set up the house where the American mariners lived, and asked how Brooks and the sick were faring, but Brooks refused to go into detail. Brooks’ only complaint was that he had been “oblign to mess with all Classes even to neagroes [sic]

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\(^{41}\) William Brooks to John Le Basquit, 27 April 1800, Thomas English Papers I, Massachusetts Historical Society.

\(^{42}\) William Brooks to John Le Basquit, 27 April 1800, Thomas English Papers I, Massachusetts Historical Society.
which is Very disagreeable.”

There was a hint of this entitlement and racism in his letter to Le Basquit, when he said that the crew of the *Ariadne* had not been granted any “distinction” after they left prison. However, the dominant theme in his letter to Le Basquit was a need to survive, while in his letter to Dobrée, who had more power to help him, the emphasis was on a desire to be treated according to what he believed was his social station.

Brooks may have directed his complaints to Le Basquit rather than Dobrée because he believed the Consul was the origin of some of his troubles. Brooks wrote to Le Basquit that Dobrée “has put us into a house ware [sic] we shall all Die in a littel [sic].” If Dobrée had created the situation, he also had the power to change it, yet when

43 William Brooks to P.F. Dobrée, Undated, Thomas English Papers I, Massachusetts Historical Society. During his time in the maritime industry, William Brooks would probably have met or worked with many African American seamen. In W. Jeffrey Bolster. *Black Jacks: African American Seamen in the Age of Sail*, (Cambridge, MA: Harvard University Press, 1998). Bolster writes that by the beginning of the nineteenth century, when Brooks would have been active, as many as 18% of US mariners were African American. Bolster writes that the profession of mariner allowed some to “escape the prevailing racism of other occupations” since there was a shared goal and experience of toil between mariners, but that racism could never truly vanish. Brooks is an excellent example of the phenomenon – that he could be in a traumatic situation with other seamen who had experienced many of the same hardships as him, but still feel that he was deserving of better treatment on the basis of race. Bolster’s book highlights a lot of the contradictions inherent in life as an African American seaman. Edile Wong’s “In the Shadow of Haiti: the Negro Seamen Act, Counter-Revolutionary St. Domingue, and Black Emigration” in *The Haitian Revolution and the Early United States: Histories, Textualities, Geographies* (Philadelphia, PA: University of Pennsylvania Press, 2016) deals with one of the more specific challenges that these seamen faced: the Negro Seamen Act. Though Brooks does not mention the Act, it is worth thinking about in the context of his racist comment, since the restrictions on the movements of African American mariners (with the idea to prevent the spread of the ideologies of the Haitian Revolution) singled them out from their white coworkers on the basis of race in ways that were not necessarily already present in the maritime industry.


45 Ibid.
Dobrée asked Brooks what was happening in the house, Brooks replied that he had “nothing to say.” Indeed, it was toward his captain, the man with no resources, no legal training, no political power, who had no control over the house where he lived, that Brooks directed the description of his situation most likely to elicit help.

Perhaps the issue was not so much that Brooks had no complaints, but that he had no complaints to make to outsiders, that six years of France’s naval campaign against the US maritime trade had taught him and other mariners that government officials, even ones who seemed to want to help, were of little use. As this chapter will show, Brooks’ journey, while harrowing, was not unique. During the Quasi War, many of the captains and crews on ships captured by French privateers shared similar experiences of what that capture was like. Even those who were not endangered by illness and imprisonment as Brooks and his fellow crewmembers were experienced a profound loss of control. Privateers frequently robbed the vessels they stopped of provisions and personal effects, but they also took away the agency of the crew, through a system designed to leave mariners with only one choice: comply and live, or resist and die. In this dire situation, most mariners seem to have turned to each other for help, not to the US government, either because there was no system in place to help them, or because they were not the highest priority. It is unclear exactly what happened to the other mariners of the *Ariadne* in government housing that Brooks was so sure would die, but it does seem that when Brooks eventually returned to the United States, he returned alone.

A. The Rules of the Game

Maritime captures and imprisoned seamen were not unusual at this point in time. During the 1790s, US ships were regularly captured by privateers hired by Spain, Britain, and the Barbary States, among others. These captures were generally governed by a system of international law known as the Law of Nations. To modern eyes, these laws allow a degree of latitude to the privateers patrolling the seas that may seem reckless. A privateer vessel could legally stop any ship that they could catch and overpower, except

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47 For more on the French use of privateers in the Caribbean, see David Patrick Geggus, “Slavery, War, and Revolution in the Greater Caribbean” in A Turbulent Time: The French Revolution and the Greater Caribbean, ed. David Barry Gaspar and David Patrick Geggus (Bloomington, IN: University of Indiana Press, 2003) and for a good history of privateers in general, see Alexander Tabarrok, “The Rise, Fall, and Rise Again of Privateers,” The Independent Review 11, no. 4 (Spring 2007) p. 565-577 for an overview of the critical role that privateers played in the American Revolution, the height of privateering during the war of 1812, and an overview of how prize courts normally operated. Tabarrok noted that prize courts were often generous toward ships of other nations, in contrast to their behavior during the Quasi War, in which many French courts endeavored to keep the seizures as often as possible.

48 Donald A. Petrie, The Prize Game: Lawful Looting on the High Seas in the Days of Fighting Sail (Annapolis, MD: Naval Institute Press, 1999) has a very clear explanation of the Law of Nations as well as some good examples of how it was applied to privateers. For more on it as part of international relations, see Gould, Eligia H. Among the Powers of the Earth (Cambridge, MA: Harvard University Press, 2012) where Gould writes about the climate that the Law of Nations created domestically for the US, and why the US would have wanted to comply with it. For more on violations of it as part of the motivations for the Quasi War, see “Defining the Balance in a Revolution and the Constitution” in Kenneth B. Moss, Marque and Reprisal (Lawrence, KS: University Press of Kansas, 2019), which also brings up the ways that the Law of Nations played into US domestic politics. For more on the Law of Nations as a part of US Federal laws, see Andrew Lenner, “Separate Spheres: Republican Constitutionalism in the Federalist Era,” The American Journal of Legal History 41, no. 2 (April 1997), p.250-281 or Anthony J. Bella Jr, and Bradford R. Clark, “The Law of Nations as Constitutional Law,” Virginia Law Review 9, no. 4 (June 2012), p. 729-838.
for naval vessels of a neutral nation. During a chase, it was legal for a privateer to fly the flag of any nation, regardless of whether it was the nation that employed those privateers.

Once the privateer crew was in control of the ship, a privateer had the right to conduct an investigation into the ship and its crew. If it was determined that the capture was a ship from the same nation as the privateer, it would have to be let go. If it was a vessel belonging to an enemy nation, but had been granted permission to pass, it would also be released. However, any other enemy vessel was considered fair game for a whole range of destructive activity. The privateers could loot the it freely, taking anything they could find on the ship, from the cargo to the provisions to the property of the crew. They could also choose to use the ship as target practice or set it on fire.

The goal when privateers stopped a ship from a neutral country was relatively simple: to determine whether the neutral ship could be brought into a port for trial, and then sold for the benefit of the privateer crew and their employer. This was the section of the Law of Nations that most closely concerned the US, which was neutral in the war between France and Britain, and traded with both nations. Privateers were not allowed take any neutral vessel to trial unless they believed the vessel had violated the terms of

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49 This was not an issue for the US at this time, because the US navy had been functionally disbanded after the American Revolution, and would not be reconstituted until the US government-acknowledged beginning of the Quasi War.
51 Specifically, privateers had the right to inspect any and all of the ship’s paperwork, interview the captain and the crew with the goal of confirming the information in that paperwork, interview the crew alone to see if the captain was lying, and require the captain of the captured ship to board the privateer for further inspection.
52 Petrie, *The Prize Game*, 149.
53 Petrie, *The Prize Game*, 151.
their neutrality. If there was evidence that the vessel was breaking a blockade, carrying contraband, or trying to assist one warring nation over the other, it was considered a “culpable neutral” and could be brought into a prize court. One issue that would recur throughout the French seizures in the 1790s was that the crews on US ships were denied their rights under the Law of Nations; even if they were a culpable neutral, they still had more rights than that of an enemy ship. Most importantly, the privateers had to allow one of the officers and several of the crew to come to the prize court in person to testify on behalf of their ship and cargo.54 However, the crux of the issue during the Quasi War lay not just in the treatment of the crew of culpable neutrals, but in the determination of that culpability. From 1793 on, French privateers were bringing larger and larger numbers of neutral ships into prize courts that condemned both ship and cargo. There were legitimate seizures of US ships that were illegally trading with the British, but more and more it seemed that the French privateers were not conducting their shipboard investigations in good faith, and were looking for reasons to condemn any US ship.

What happened to the people on captured ships was far less predictable than what happened to the ship itself. The Law of Nations was made to protect national interests, not individual ones, so it was more concerned with preserving a climate in which a nation’s goods could continue to circulate than it was in protecting any one voyage. The Law of Nations contained much more material about what a privateer could legally do with property than what he could legally do with people. Indeed, there was hardly any guidance concerning captured mariners; what was there has to be inferred from the more general rules of conduct. If it was forbidden to be violent toward the vessel post-capture,

54 Petrie, The Prize Game, 150-1.
it could follow that it would also be appropriate to do the same toward the people on that vessel. There were legal cases that suggested privateers should treat prisoners humanely, especially citizens of neutral countries, as some prize court judges would not allow privateers to keep a ship’s cargo if it was determined that the privateers had been unduly harsh with their prisoners.\textsuperscript{55} However, this was up to the discretion of the prize court judge, not a widely recognized part of the Law of Nations. Whether they were passengers or in the maritime trade, those unfortunate enough to be on board a captured vessel could be imprisoned, stranded, put on a different ship, ransomed, or traded for prisoners with another nation, and much of this was completely legal.

\textbf{B. The Climate of an Undeclared War}

Starting in 1793, the United States was involved in a \textit{guerre de course}, or a trade war, whether the government acknowledged it or not. Though news of maritime captures would periodically appear in newspapers, each story would document one incident, not a trend. From the beginning, some members of the maritime community were aware that there was a pattern to the French captures, and that their sometime ally was not to be completely trusted. This perception sometimes filtered into the public consciousness, via letters from captains that were published in newspapers. In 1795, Captain Hamilton and Captain Newton wrote from St. Domingue to say that, provided a vessel was well stocked with provisions, French privateers would “take and send into their ports all the American

\begin{footnote}
\textsuperscript{55} Petrie, \textit{The Prize Game}, 158-9.
\end{footnote}
vessels they meet.”56 These letters appeared in general interest newspapers as asides, small news items that could be easily glanced over.

In more specialized newspapers for the maritime industry, overlooking the reality of French captures would have been much more difficult. Just one 1796 page of *Finlay’s American Naval and Commercial Register* has accounts of British captures, seamen dying in a prison in the Barbary states, and dozens of vessels seized by the French (including one sloop that was taken by a privateer crew traveling via row boat). Again, the paper printed a statement from a captain that these captures were a coordinated effort against the United States, with Captain Pearson of the *Mary* writing “the French cruisers capture all Americans that fall in their way.”57 The maritime perception of the French threat could become part of the public record in a less visible way, via “protests,” notarized accounts of captures from the perspective of a captain or, less commonly, a member of a crew, that could be filed with a US court. These protests indicate a general knowledge among the men who filed them that the French seizures were part of a larger pattern, sometimes based on the speaker’s perception of the events surrounding their capture, and sometimes because their captors directly told them that this was the case. The privateer who captured the *Zilpha* and brought it to Puerto Rico left the *Zilpha’s* captain with a written declaration that “all the armed vessels of France had received similar orders” to seize American ships.58

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57 *Finlay’s American Naval and Commercial Register*, November 18, 1796.
58 “Schooner Zilpha” in *Message from the President of the United States, Transmitting a Report and sundry Documents, from the Secretary of State of Depredations Committed on the Commerce of the United States Since the First of October, 1796; in Pursuance of a Resolution of the House of the Tenth Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
If the general awareness that sailing in the same waters as French privateers was risky for US ships is not readily apparent in the newspapers, it is visible in maritime insurance premiums, which increased dramatically during the 1790s for voyages on routes commonly raided by the French. William Handy was a young doctor who forayed into the shipping industry with a voyage on and an investment in the *Semiramis* in 1797. He filled some of the time during his voyages by writing long, romantic letters to his fiancé, Abigail Saltonstall, that sometimes veered into the more pragmatic territory of the trials and frustrations of obtaining maritime insurance. Handy always tied his unhappiness with the insurance rates back to France, stating that premiums were high because of “the moment of a rupture between France and this country” and positing that they would fall if the US entered into negotiations with France to end the captures.

Before his voyage on the *Semiramis* Handy found confirmation that however high the price for insurance, he was not alone in thinking it was essential. In the course of a discussion of a recent ship capture with investors in other ships, he realized they were also unsure whether to let their own ships sail without insurance. A Mr. Brown, one of these investors, told Handy that his ship had been prepared to sail for ten days, but he was not ready to let it leave the port, and urged Handy to consider the dangers of disregarding the threat that the French posed, since both his and Handy’s ships were “far too valuable to be given to the rapacious French.” By the end of their conversation, both men were

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59 This this was a time of transition for the US insurance business as marine insurance companies replaced brokers that had private individuals as underwriters. This became relevant during the period when merchants were trying to get restitution from the US government because each underwriter had to file a separate claim. For more, see Christopher Kingston. “Marine Insurance in Philadelphia During the Quasi-War with France, 1795-1801” *The Journal of Economic History*, Vol. 71, No. 1 (March 2011), pp. 162-184.
despondent, and commiserated over ever having embarked on a maritime career. Handy closed the letter about this conversation with a description of the kind of resolve and “firmness” that would be necessary to overcome the “misfortunes” he faced, but he spoke of the sort person who had those characteristics as “him” not “I.” Even as he was about to embark on a maritime voyage, William Handy knew that this risky business in a dangerous time might not be for him. It is possible that his turn toward the maritime life was related to his engagement to Saltonstall, who came from a prominent shipping family.

Though he was questioning his future, it was too late for Handy to turn back, or at least too late for him to abandon his voyage without revealing some of the fears that plagued him. Appearing strong was important to him. In a 1797 letter to Saltonstall he wrote that his only concern was allaying her fears for his safety and urging her to stay strong in his absence. He even asked her to swear on her love for him that she would “preserve…[her] most valuable health” by reading “the newspapers much less” than usual until he returned, so that international politics would not disturb her. Saltonstall was of a nervous disposition, and in addition to whatever doom and gloom she might hear from the newspapers, her family’s shipping contacts meant that she was probably privy to more news than most about the captures, and the climate of fear that they produced. This particular letter appears to have been prompted by Saltonstall hearing about two recent

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60 William Handy to Abigail Saltonstall, April 1, 1797, William Handy Letters, 1796-1832, New-York Historical Society.
61 William Handy to Abigail Saltonstall, April 4, 1797, William Handy Letters, 1796-1832, New-York Historical Society.
captures from a captain and a merchant in her personal network and fearing that the same
misfortune would befall her fiancé.

However, even Handy’s reassurances spoke to his own doubts. He wrote first that
there could be no danger of his being captured because the French “will not dare
approach us” because his ship looked so “saucy.” He almost immediately backtracked
and acknowledged the possibility of an attack, instead reasoning that he would be safe
because in the event of an attack as his “situation in the capacity of surgeon is without the
reach of danger.” More experience of the maritime trade did nothing to allay his fears.
If anything, it magnified them beyond the point where he could put on a brave face.
While on board the Semiramis on his next voyage, he wrote that thoughts of the dangers
ahead of him “distracts me in a manner which admits not description.” Every danger that
he described, apart from the fear that Saltonstall might die before he could see her again,
was related to French privateers, that he might be “destroyed in the defense of my
property, or dragged to a loathsome jail…a miserable existence, in chains, despised,
unpitted & insulted.”

Though Handy was not always so despairing, and though he is just one voice
among thousands who sailed under the threat of French capture, his frank discussion of
the danger that lurked during this period is worth listening to. He was not alone in
feeling like this: he remembers other passengers on his ship clinging to the word of a
“conjurer,” who they had spoken to before embarking, that they would be safe from the

62 William Handy to Abigail Saltonstall, April 4, 1797, William Handy Letters, 1796-
1832, New-York Historical Society.
63 William Handy to Abigail Saltonstall, May 5, 1799, William Handy Letters, 1796-
1832, New-York Historical Society.
French. Handy was more unusual in making explicit the sense of dread that stemmed from a threat that was both ever-present and hard to pin down than he was in feeling that dread in the first place. He reassured Saltonstall that if she did not hear from anyone that the Semiramis had been captured within the first two weeks of its voyage, that she was to assume that the ship had safely made it past the privateers who patrolled the US coasts. But absence of evidence was as much a herald of misfortune as it was of an uneventful journey. Joseph Iznardi, a US diplomat in Spain, wrote home that the mate and entire crew of the Mary Ann had been taken, and that since then no one had heard anything from them. He described no effort to retrieve them, or any captured American. Perhaps the fact that Handy listed a fear of wasting away in a jail as parallel to that of being killed in an attack reflects the reality that the threat to himself and other Americans on the seas was not just the aggression of a foreign government, but the indifference of their own.

C. A Standard Capture

Though the undeclared war and dearth of recognition from the US government made the threat from France seem ambiguous, a lot of the captures followed a standard pattern. The awareness of French captures meant that American ships were on alert, not

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64 William Handy to Abigail Saltonstall, May 19, 1799, William Handy Letters, 1796-1832, New-York Historical Society.
65 William Handy to Abigail Saltonstall, April 4, 1797, William Handy Letters, 1796-1832, New-York Historical Society.
66 “Extract of a letter from Joseph Iznardi, Consul of the United States at Cadiz, to the Secretary of State, dated Cadiz, 15th December, 1796,” in Message from the President of the United States, Transmitting a Report and sundry Documents, from the Secretary of State of Depredations Committed on the Commerce of the United States Since the First of October, 1796; in Pursuance of a Resolution of the House of the Tenth Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
just for a privateer attack, but specifically for a French attack. One of the seamen on the Oracabissa told the captain that the mere presence of the Fortitude was cause enough to “be on…guard for fear of an attack,” even though the Fortitude did not raise a flag of any nation.67 Archibald Cunningham, the captain of the Nancy, upon being hailed by a ship, immediately “suspected” that it was French although, like the Fortitude, “they had no colours.”68 Handy was in a similar situation as he sailed by the coast of Cape Verde, and spied a brigadier. He hurried to finish the letter he was writing in case the brigadier was a friendly ship that could deliver it, but noted that “everything is made clear for an engagement” in case “the brig should prove a French privateer.”69 Handy also noticed that the caution the crew of the Semiramis felt about strange vessels was mirrored back at them. Every ship they tried to hail in order to get news from home had refused to stop, since the Semiramis was armed and the ships were “terrified” by its “martial appearance.”70

67 “Testimony of John Colhoun,” in Message from the President of the United States, Inclosing [sic] a Letter to Him from the Governor of South Carolina, Accompanying A Number of Depositions of Witnesses to Several Captures and Outrages Committed within and near the Limits of the United States by a French Privateer, called the Vertitude or Fortitude; and also Copies of certain other Depositions relative to the same subject, transmitted by The Collector of the District of Charleston (Philadelphia: House of Representatives, Printed by Joseph Gales, 1798), 15.
68 “Nancy. (Cunningham.)” in Message from the President of the United States, Transmitting a Report and sundry Documents, from the Secretary of State of Depredations Committed on the Commerce of the United States Since the First of October, 1796; in Pursuance of a Resolution of the House of the Tenth Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
70 William Handy to Abigail Saltonstall, June 29, 1798, William Handy Letters, 1796-1832, New-York Historical Society.
As it became clear that the perceived threat could not be avoided, the French privateer would usually hail the American ship, and then ask the ship’s captain to get in a longboat and come over to the privateer, possibly with the ship’s papers. Once the privateer decided to capture the ship as a prize, often the crew of both ships would be divided, with some crew of the privateer staying on the prize ship to direct its course, and the occupants of the prize ship divided between the two vessels. Frequently, the Americans taken onto the French privateer were chosen because they were the most vulnerable and, with the exception of the captain, the least strategically valuable. In consequence, the captain, or the captain and senior officers, were often separated from the crew. In some cases, the prisoners that the French would take and hold with the captain onboard the privateer were Americans who had booked passage on the merchant ship, but who were not actually in the maritime trade.\footnote{This was the case on the \textit{Tom, Pallas, and Diana}.} However, the pattern that most frequently appears is that if the captain was separated from the body of the crew, the only member of his crew who would be taken with him was a cabin boy.\footnote{The ship \textit{Alexander} and schooner \textit{Ruth} were described as “being stripped of all her crew, except for the cabin boy,” and sailors on the \textit{Pallas} and the \textit{Mary} remembered that the French took their cabin boys along with their captains. (“Report on some of the American vessels captured by the armed vessels of the French Republic, and carried into the various ports of the Republic,” in \textit{Report of the Secretary of State...Referred to him, by order of the House, on the Seventh of May Last}, (House of Representatives, 1797); and “Testimony of the Sailors on the Pallas” and “Testimony of the Sailors on the Mary” in \textit{Message from the President...transmitted by The Collector of the District of Charleston} (Philadelphia: House of Representatives, Printed by Joseph Gales, 1798).}} The other constant in accounts of captures was imprisonment. Though some privateers would use hostages to compel obedience, others would simply imprison the crews of the ships they captured until they could guide the ships into port.
Separating the crew from the captain had a few benefits for a privateer. The privateer captain could decide to hold the prize ship captain as a hostage and threaten his life as a way to force the prize ship to follow them into port without a privateer presence on board (this happened to William Handy’s captain on a voyage after the conclusion of the Quasi War). Additionally, breaking down the chain of command made it harder for the captured crew to regain control of their ship. But harder did not mean impossible. In one instance, the captain of a prize ship, on boarding the privateer and realizing that it was manned by a skeleton crew, shouted instructions back to his own crew that enabled them to retake their ship as the privateer could not mount a defense.\textsuperscript{73}

Although the captain of a captured ship had value for the privateer, he was not the object of the seizure. In fact, the most important part of any maritime capture was not human at all. Nearly every legal case surrounding maritime captures lived or died on the strength of the paperwork of the captured vessel. As soon as the crew of the privateer had subdued the crew of their capture, obtaining that paperwork became their sole focus. It was crucial for a privateer to have complete control of all papers. If the privateer was concerned about following the law, it was easier to make a case for the captured ship lacking necessary paperwork if all the paperwork had been examined. If the privateer’s intent was to circumvent the law, controlling the paperwork could facilitate a situation where some of that paperwork could, quite simply, disappear. Exactly what paperwork the privateer would be getting varied from ship to ship; the most critical documents were a rôle d’équipage, the sea letter, and bill of lading, which concerned respectively: the

\textsuperscript{73}``Freebooters at Hand,’’ \textit{Rising Sun}, May 23, 1797.
identity of the crew of the ship, the intent with which the merchant had dispatched the vessel, and the business the crew had conducted at the ports where they stopped. 74

Though it was entirely legal for a privateer to both see and confiscate any documentation that the ship had, that was the only type of confiscation that the Law of Nations allowed. As such, many captains seemed surprised by the confidence with which privateers looted the vessels they captured before any judgment about the legality of the capture had been made. While privateers had Mark Hatch, officer on the Delight, imprisoned on their ship, they took his trunk, his spyglass, and some of his clothes. 75 W. Van Renselaer, captain of the Two Friends remembered that as the privateers were confiscating the schooner’s paperwork, they took all of his other possessions in the chest with the papers, before they “pillaged the chest of Joseph Crouder, my mate, of the greatest part of his effects, as well as those of the crew.” 76

It was clear that these seizures were not governed by the law; Captain Robert Lawton wrote that when the privateers went through his belongings, they took “what they had a mind for” not what they were legally entitled to. 77 The personal belongings of captain and crew were frequently long gone by the time the captured vessel made it into harbor, and their common property was not excepted. Many accounts of privateers show them looting provisions that were meant to feed the crew. Though many of these losses

74 See Note 14 for more sources on the rôle d’équipage.
75 “Schooner Delight (Hatch) Commonwealth of Massachusetts,” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
76 “Schooner Two Friends,” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
77 “Ship Commerce. (Lawton.)” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
had relatively small monetary value, they represented the totality of the belongings of the people on the captured ship. This was a display of the power, demonstrating that privateers could flagrantly break the law and expect no consequences. Indeed, though these losses were frequently mentioned in protests by captains and by crew members, they are hardly ever counted in the lists of property loss that the privateers were responsible for, although for the most part there is no indication that the items were ever returned.\textsuperscript{78}

Having personal property stolen was undoubtedly significant for the captains and crew of captured ships, an increased the sense of isolation that they frequently documented in their protests. After the privateer ship and its capture docked in the port where the validity of the prize would be judged, the captain or crew would sometimes be thrown in jail, but often they were simply released into the city. Letting the Americans go was not a huge risk: as most of their property had been seized and most did not have a large amount of personal wealth, they would find it finance an extended stay in a foreign city. Most tried to find a way back home, but those could be hard to come by. It was a common refrain in the captains’ protests is the experience of landing in a strange place with nowhere to stay, no knowledge of the language or legal system, no money, and no way home.

The language barrier also meant that in the cases when a captain was allowed into a courtroom to testify against their ship and cargo being condemned, they would often be speaking through an interpreter. Captain Van Renselaer had to find a local interpreter

\textsuperscript{78} For more information and examples on personal property loss, see Chapter 4.
just to get his protest recorded, as the notary taking it down did not speak English. The protest was his chance to have his version of the story recorded, so an inability to get a protest was a major blow to his and other captains’ already limited agency. Thomas Town jr., captain of the *American*, actually suspended the process of the creating the protest “as he only could do it through the medium of a French interpreter who understood but little English.” For Town, the protest was especially important, because he had already refused to sign the procès-verbal (a court document that recounts the total proceedings of the case) that the French had offered him, meaning that he probably disagreed with their version of events, but was still unable to tell his own.

Even when American crews were not imprisoned, they often daced dire conditions. The loss of personal property could leave them with only the clothes on their back. One captain of a vessel that was cleared of any wrongdoing was forced to sell it for a fraction of what it was worth instead of using it to sail home, as the privateers had “stript him of his last shilling, even to his clothes.” This was undoubtedly a humbling way to lose a ship, but the impact of every ship loss had an emotional level as well as a practical and financial one. During this period the pronoun usage around ships varied: some referred to them as inanimate objects with the pronoun “it” or assigned them a gender as “she.” However, when writing about losing the ship under their command, some captains shifted to a more personal form of address. Referring to captures, John

79 “Schooner Two Friends,” “Schooner Delight (Hatch) Commonwealth of Massachusetts,” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
Bailey, Robert Lawton, and others who were never imprisoned by the privateers referred to the people who boarded their ship “taking me” or “making a prize of me.”\textsuperscript{81} In these instances, they were clearly talking about the ship, its cargo, and its crew, but their sense of responsibility for what was lost made that loss all the more intimate.

Whether the privateers released them in France or on a Caribbean island, the fact remained that getting home was an uphill battle for the captured American crews. However, even after they had been stripped of their vessel, money, and property, they still had one asset: the maritime network. In nearly every protest that mentions how the captain or his crew was able to return to the US there is a story about being helped by other American captains and mariners. This help could be relatively small, like mariners reporting home who was imprisoned in what port. However, small gestures could mean a lot, like the keg of rum that the Captain Stanford of the \textit{Dean} provided to Captain M’Call that “afforded a very seasonable relief to his almost exhausted crew.”\textsuperscript{82} Often, American ships offered an escape route for those who knew that their own ships would never be returned to them, like the captain and crew of the \textit{Zilpha}, who “were obliged to go on board the brig Resolution,” which had already been through the trial process, as it “was the only refuge for them.”\textsuperscript{83} These interactions illustrate how even in large ports, the maritime community was small: one captain wrote that he stayed at a boardinghouse where he happened to meet two more American captains of ships that had been captured

\textsuperscript{81} John Bailey to P.F. Dobrée, January 28, 1800, Thomas English Papers I, Massachusetts Historical Society; “Ship Commerce. (Lawton.),” in \textit{Message from the President of the United States...Instant} (Philadelphia: House of Representatives, Printed by W. Ross, 1797).

\textsuperscript{82} Untitled, \textit{Connecticut Journal}, January 18, 1797.

\textsuperscript{83} “Schooner Zilpha,” in \textit{Message from the President of the United States...Instant} (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
by the French. These captains told him stories of still more captured ships, including one that had been sold to another American who had become a French privateer himself.

Whatever sense of communal responsibility for the wellbeing of fellow mariners that existed within the maritime community was a force that actually saved lives. Captain Codwise of the Glasgow carried the captains of six other ships home from the port of Leogane, which they reportedly “escape[d]” in the dead of night to get away from the “cruel treatment” of the French. Even the crews of captured ships, who often had less of a voice and whose movements were less frequently documented than captains, could tap into this network. William Fearson wrote that after being captured by the French he was “destitute of every thing to obtain the common necessaries of life; and but for the generous assistance of Capt. Little an American, he would have been imprisoned” and that Little had subsequently helped him to get back to America. Indeed, the “assistance” offered by American mariners could even extend to lobbying the local government on behalf of the captured. In a protest that was filed as the account of the entire crew of the Kitty, they remembered that the only reason they were freed was “by the interference and remonstrance…of some American captains.”

The fact that many of the protests identify the nationality of their rescuers as American is significant; not only do the accounts show the bond between those in the maritime trade as a resource, it also shows that their identity as Americans was important to them. It was this identity that led the crew of the Kitty to refer to their home as “the

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84 Finlay’s American Naval and Commercial Register, November 18, 1796.
85 “Ship Nancy,” in Message from the President of the United States…Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
86 “Ship Kitty. (McPherson.),” in Message from the President of the United States…Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
land of freedom,” but it also led Daniel Gorton, captain of the Success to feel that the French capture was unjust as it denied him what he was entitled to: that “justice be done to him as an American, sailing in an American vessel and under an American flag.”

Nearly every mariner who received help from another mariner received it from an American, with one important caveat: the Americans who actively helped stranded mariners were mariners themselves, not government officials. Almost none of the protests, letters, or legal documents reviewed for this thesis that chronicle the early stage of the conflict, from 1793 to 1797, mention any assistance or advice from any officer of the US government. The accounts of government officials themselves indicate that they had some contact with mariners: either by hearing their complaints or sending lists of their names back to the US, but even their own letters do not indicate a general plan or policy to protect the mariners. The US government’s presence in these documents is most apparent through its absence, it was no helping, but none of the captured captains or crew seem to have expected it to. The network of American ships and mariners was a last defense mechanism for the maritime community because they knew that there was no other help coming.

The average experience of being captured by a privateer was both frightening and destabilizing, and the ease with which it could happen to any ship at any time created a climate of fear during maritime voyages. Bonds and fellow feeling that within national and maritime communities could help lessen the dire consequences of a privateer capture, but they could also help to spread stories and apprehensions of what awaited mariners

87 Ibid; “Ship Success” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
after they left port. Having very similar capture experiences and many interactions with other captured mariners meant that there was a greater awareness in the maritime community of the French threat than there was in the general public. However, the capture was only half of the battle. Once the ships came into port, they faced a different aspect of the French privateer network: the prize court.
CHAPTER II

DEVOURING THE FRUITS OF REVOLUTION

In some respects, the Quasi War began on September 21\textsuperscript{st}, 1793, when France’s National Convention proclaimed “the liberty of the sea” with a navigation act that would “bear the impression of liberty and equality, which produced it.” The assertions about the ideals of liberty present in the Committee of Public Safety’s statement on the Navigation Act masked their very practical assertion that “It is not sufficient for you to have founded the political republic--it remains for you to found the commercial republic.” In this way, the French republic was going through many of the same growing pains as the US, trying to assert its position in the world marketplace, and establish relationships with powerful nations. However, the Navigation Act paved the way for a series of more radical decrees that had the potential to damage those relationships. In the aftermath of the act, privateers were permitted to set aside the law of nations and treat every neutral ship that carried British cargo as though it was an enemy.\textsuperscript{88} This was a gamble, since neutrals could have curtailed trade with France, or outright sided with Britain as a protest. The Convention was betting that French trade and a diplomatic relationship with France were valuable enough to the United States and other neutrals that these governments would overlook illegal behavior. Up to a point, the Convention was right.

\textsuperscript{88} Agents of the Executive Directory to the Leeward Islands, November 27\textsuperscript{th}, 1796 in Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States, Residing in the City of Philadelphia, Referred to him, by order of the House, on the Seventh of May Last, (House of Representatives, 1797), 7.
In early 1793, Great Britain joined a war between France and other European powers, making French vessels a target for British ones.\textsuperscript{89} However, it was the commercial relationship between the two countries that was the impetus for the Navigation Act. Despite a wartime footing, British merchants still conducted trade between France and its neutral allies. The thought of giving the British revenue from French goods on these ships stung, since the British were also seizing French goods from neutral vessels.\textsuperscript{90} A desire to use these tactics against Britain was one of the motivations

\textsuperscript{89} This was the War of the First Coalition. Great Britain joined a coalition of countries that were already at war with France. The war had its origins in a changing political situation in France that threatened the lives of the royal family, but also goals of territory acquisition. To read more about the origins of the conflict as it related to other European monarchies, a good summary can be found in Mark L. Haas, “The Three Wars of the French Revolution” in The Ideological Origins of Great Power Politics (Ithaca, NY: Cornell University Press, 2005) or for a more in-depth analysis look at Owen Connelly, The Wars of the French Revolution and Napoleon, 1792-1815 (London: Routledge, 2005).

\textsuperscript{90} These British seizures were, in and of themselves, part of the groundwork for the Quasi War. The American decision not to intercede in the French Revolutionary Wars resulted in a series of slights in the early 1790s that wore on the French/American relationship, which badly deteriorated in 1794. On November 19\textsuperscript{th} of that year, the US signed the Jay Treaty with Britain, an action that France viewed as a shot across its bow. On its face, the reason seems innocuous: the Jay Treaty bound both the US and Britain to a broader definition of the concept of “contraband.” In wartime, it was common for countries to define contraband as any military-related item, and the Jay Treaty used this definition, even though the US was not at war (Britain was, not coincidentally, at war with France). This wartime definition included weapons, such as cannons and mortars, but also a list of items that would be fairly common to find on a ship, such as “Sails, Hemp, and Cordage” (see “British American Diplomacy; The Jay Treaty; November 19, 1794,” The Avalon Project, accessed May 6, 2018, \url{http://avalon.law.yale.edu/18th_century/jay.asp}) Prior to signing the Jay Treaty, the US had signed treaties with France that upheld a much narrower definition of contraband. France regarded this new agreement as a betrayal, since the US was tacitly endorsing a policy by which any ship carrying contraband in the broadest sense of the word could have its non-contraband property legally seized as well (although the Treaty did stipulate that all seized contraband had to be paid for). This policy opened the door to more British seizures of French property and ensured that Americans would recognize those seizures as legal. See Alexander DeConde, The Quasi War: the Politics and Diplomacy of the Undeclared War with France, 1797-1801 (New York: Charles Scribner’s Sons, 1966), 10.
for the Navigation Act, and a major justification for French actions throughout the Quasi War. The narrative that drove nearly all of the 1790s captures of US ships was actually relatively simple: Britain had its boot on France’s neck, and to combat this, any act of retaliation, any laws broken, any lives lost, were completely justified.

On a practical level, the Navigation Act of 1793 required goods that France and its colonies imported to come via French vessels or vessels belonging to the country where the goods were produced. More generally, it was a mercantilist document that gave France more control over trade with its colonies.91 The Act opened the door for more radical changes to international law that used the same justifications as the Act, allowing armed French vessels to violate international law, potentially destroy their relationships with the United States and virtually every other neutral nation, and endanger their own access to food and supplies. Using a justification of British aggression gave French courts permission to seize more ships and cargoes, but also required some more complicated maneuvers to sustain these seizures in court. Examining the laws, their

justifications, and how they were used in practice will shed light on the Quasi War in a larger sense: that the seizures were, by some measure, legal, helped to keep the Quasi War undeclared and the US as an ally, and thus, dictated the somewhat ambiguous nature of the conflict.

A. The Navigation Act

The Navigation Act was accompanied by speeches to the Convention, with the centerpiece being the speech by Bertrand Barère on behalf of the Committee of Public Safety. Barère argued that that commercial freedoms were inextricably tied to the larger Revolution, saying that the Navigation Act “shall neither be revoked or destroyed by our enemies, till they have beaten down the tri-colored flag.” The speech further bound the seizure of ships to a national narrative of revolution by using the language of the Revolution; instead of the “Declaration of the Rights of Man and Citizen” the Committee claimed that the navigation act would serve as a “declaration of the rights of nations.”92 However, possibly even in the same breath, Barère said that the planned attacks on trade were “not a hostile measure, it is not an exercise of the right of war.”93 Though seemingly wanting to capitalize on the rhetoric of revolution, the Committee still tried to insulate itself from being perceived as an aggressor.

92 The idea of the rights of nations or droit des nations was not invented by the French Revolutionaries, but it was popular with them. Plotting the phrase on Google’s n-grams reveals that in French, the phrase peaked in usage in 1795 (in English, it was 1852). (n-grams data based on data from: Jean-Baptiste Michel*, Yuan Kui Shen, Aviva Presser Aiden, Adrian Veres, Matthew K. Gray, William Brockman, The Google Books Team, Joseph P. Pickett, Dale Hoiberg, Dan Clancy, Peter Norvig, Jon Orwant, Steven Pinker, Martin A. Nowak, and Erez Lieberman Aiden*. Quantitative Analysis of Culture Using Millions of Digitized Books. Science (Published online ahead of print: 12/16/2010)).
The Navigation Act was a legal document that had implications for other nations, so it makes sense that it was distributed “to the friendly or neutral powers” once it was law. Barère’s speech, that described an ideological backing to the Act, but not its particulars, was also distributed. When the US recorded or reprinted the documents, letters, or records received from France, there was often a note in government publications when the US had these documents translated from the original French. The reprinting of Barère’s speech has no such note. Barère would have given the speech in French, and it was published in French, but it seems some copies were translated into English before they left France. The message of the speech was important enough that the Convention wanted it to be read with ease by an audience whose primary language was English. Given the tone toward and focus on Britain, it is entirely possible that the French wanted their enemy to hear French defiance in their own tongue, but much of the speech points toward a different English-speaking audience: the United States.

Barère opened his speech with a lengthy denunciation of the tyranny of Britain, but much of the meat of the speech was a case for the French trading relationship with the United States. It might seem odd to actively court a nation while giving permission to attack that same nation’s ships. On the one hand, this disconnect shows the degree to which larger trade concerns could be disassociated from the day to day reality of risk on the seas. Legislation like the Navigation Act is a good example of how the political world was driven by commercial and maritime interests (the Act came into being because of concerns that France was losing money in the maritime trade) while at the same time creating policies that influenced how the maritime world behaved (the Act allowed

\[94\] Ibid.
greater latitude for captures). With that said, there is also a degree to which the maritime trade was a world apart from the political machinations of government figure; it had its own power structures, its own customs, and its own laws, and many merchants and captains felt no qualms finding commercial trading partners among their country’s political enemies. Despite the fact that the Act paved the way for more restricted trade, there was a real argument to be made that it was a good deal for the US. Barère made the pitch that by cutting out the British middlemen between France and the neutral nations, these nations would be free to negotiate better prices. 95 Theoretically, this section of the speech addressed all neutral powers, but the US was the primary focus. Every instance of British aggression that Barère conjured for his listeners revolved around the destruction of the French trading relationship with the United States. He argued that even though this trade was slipping from France’s grasp it could be regained: only by adopting the Act could France “augment our relations with the states of America.” 96

Though the text of the Navigation Act and the intention of some of the politicians behind it were focused on economic policy, Barère and others saw it as a way to attack British trade. Barère stated that it was Britain who had given them permission, and destroyed the expectation of law-abiding behavior, since “England has put herself at the head of a coalition of tyrants, to destroy our liberty; and from that moment France has acquired the right of supporting, with her cannon and her bayonet…the establishment of a navigation act.” 97 Here Barère blended the commercial and the political: the coalition he referred to was not some sort of trade group, but the “First Coalition” that Britain had

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95 Ibid, 13.
96 Ibid, 15.
97 Ibid, 8.
joined in its war against France.\textsuperscript{98} Some of this political content is due to Barère’s personal opinions – he always wanted the economic Navigation Act to be used for political gain.\textsuperscript{99} Perhaps he was not alone: as Barère finished his speech, he was met with loud applause from the full Convention, and the act was passed.\textsuperscript{100}

This narrative of British actions forcing France’s hand would be used to justify not just the Navigation Act, but most of the decrees that followed it. Later decrees permitted seizures of any British cargo on neutral ships and any cargo on neutral ships that stopped in British or British-controlled ports.\textsuperscript{101} The narrative that Barère outlined of Britain as the victimizer on the high seas explains many more of these decrees than the specific problems addressed in the Navigation Act. This idea of British actions as a justification filtered even into correspondence, notably that of the French Minister of Foreign Affairs, François Louis Defourgues. Defourgues, who regularly corresponded with US Minister to France Gouvernor Morris, was even more direct than Barère about
tying the capture of US ships to British aggression, writing “This severe measure…will continue only as long as our enemies employ against us means disapproved by the laws of humanity, and by those of war.” The reference to “laws of humanity” shows the extent to which Defourgues raised the stakes on the victimhood argument, making it not just about a trade conflict or a political disagreement, but about life and death. Indeed, he defined the British goal in their maritime dealings with the French as “the firm determination to destroy several millions of victims, merely to satisfy a spirit of vengeance.”

At the same time as Defourgues proclaimed that the French motivation was simply “the desire of repelling unjust aggression” he distanced his government from the actions that resulted from its laws. He argued that most French captures of US vessels were forgivable misunderstandings, and that the US “must perceive how difficult it is, to contain within just limits, the indignation of our marines…against a people who speaks the same language…as that of the Free Americans.” Portraying the actions of French privateers and soldiers as wholly separate from their government was disingenuous at best. Regardless of any animosity that individual Frenchmen may have held toward

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102 “Extract of a letter from the Minister for Foreign Affairs, to Mr. Morris Minister Plenipotentiary of the United States of America, to the Republic of France—dated Paris, 14th October, 1793—2d year of the French Republic” in United States, 16th January, 1794 - Intelligence Received from Europe, 5-6. The idea of France as victim was not unique to this situation. At various points during the Revolution, the French government adopted the idea that whatever actions they took were justified because they themselves had been the victims of an unfair war. In several instances, this was the narrative was used to justify the acquisition of territory without the support of those who occupied it, such as the Rhineland. For a more detailed exploration of this trend, see James Kolla, Sovereignty, International Law, and the French Revolution (Cambridge: Cambridge University Press, 2017), p. 160-162 and 182.

103 Ibid.
English-speakers, these captures were being upheld in a court of law, an improbable circumstance if Frenchmen en masse were acting completely outside of government directives and without sanction. The unlikely nature of the scenario that Defourgues conjured showed that, whatever their differences on trade law, the US and France shared a desire to preserve a cordial diplomatic relationship with each other. These imagined angry French mariners Defourgues described were a fig leaf that allowed him to reaffirm the French government’s commitment to the US as an ally while that same government was executing a policy of seizure against US vessels. More importantly, it played into the same narrative of victimization at the hands of the British as a rationale for the French seizures. In this hypothetical situation, even as Defourgues was describing French mariners making a conscious and independent choice to capture US property, everyone involved was still just a pawn of the British.

Neither privateers seizing ships, a new nation renegotiating trade agreements, nor crafting a victim narrative around a historical enemy are inherently unusual circumstances. Excepting the specifics, much of the behavior documented here would not be out of place in another work about other privateers or pirates during this period.¹⁰⁴ What differentiates the Quasi War is the confluence of these elements: privateers, maritime law, and national storytelling being used to attack a commercial ally and neutral power.¹⁰⁵ The United States’ neutral status should have been a shield, but instead it was a

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¹⁰⁴ For more information, see Marcus Rediker, *Villains of All Nations: Atlantic Pirates in the Golden Age* (Boston, MA: Beacon Press, 2005). For information about pirates that can be contrasted with privateers, Marcus Rediker *The Many Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston, MA: Beacon Press, 2000), or Donald Petrie’s *The Prize Game*.

¹⁰⁵ For other writing on the Quasi War looks at the ship seizures in detail, see Greg H. Williams, *The French Assault on American Shipping, 1993-1813: A History and*
target. The French seizures of American property were not simply the result of policing illegal trade (circumstances under which the cargo of a neutral ally could still have been legally confiscated), but part of a coordinated effort to interfere with US trade, specifically US trade with Britain. However, once the French chose to step outside of the confines of the Law of Nations by attacking a neutral power, keeping the spoils of those attacks became much less legally defensible.

**B. Keeping the Capture**

If even a fraction of the protests of US captains were true, French privateers were in violation of international law. During this period, privateers regularly looted neutral ships before trial, confiscated the cargo of ships that had not violated their neutrality (merely trading with Britain would not qualify—the Law of Nations separates commercial relationships from political ones except for a few select situations), and, as will be discussed in future chapters, used violence on the crews of neutral ships. Despite

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*Comprehensive Record of Merchant Marine Losses* (Jefferson, NC: McFarland & Company, 2009) an encyclopedic resource where one can look up specific ships – and Patrick Crowhurst, *The French War on Trade: Privateering 1792-1815* (Aldershot: Scolar Press, 1989) which has more detail on French practices specifically. These more generalized books on privateering like those above give a sense of how privateer crews were able to take a capture. What this chapter aims is an explanation of why these captures were able to be sustained in a court of law, which is not necessarily addressed in detail in work that focuses more on the mechanics of the seizures.

106 The degree to which French law encouraged French privateers to attack US ships was something that French officials would deny publicly, but would state quite plainly in their internal documents, acknowledging not only that they knew the US was a target, but that they were aware of the massive damage French privateers were doing to US trade. When Minister Talleyrand asked analysts to tackle the subject of the French seizures and how best to approach negotiations with the US, not one of the men he asked argued that the seizures were legal. For more information on this topic, see William Stinchcombe, “Talleyrand and the American Negotiations of 1797-1798,” *The Journal of American History* 62, no. 3 (December, 1975), 576-581.
all of this, French prize courts often condemned captured ships and cargoes with verdicts that US merchants and captains had a lot of trouble challenging. Though some of this seeming imperviousness to consequences can be chalked up to corruption within the court system (in some cases, the judges in maritime courts were also investors in the privateers who brought cases before them), there were also well-established paths by which property could be condemned. Establishing this type of precedent created a system in which illegally seized property could be processed through the court system with the appearance of legality. This was done by making the prize court judges seem like they were adhering to the law and US mariners seem like they were breaking the law, even though the reality was, at best, a gray area.

Oddly enough, to justify treating the US like an enemy, courts in France fell back on their identity as the United States’ ally. Cases revolved around the court’s interpretation of the 1778 treaty that the US had signed with France when the two country’s became allies during the American Revolution. Interpretation is the key word here. The 1778 treaty of Amity and Commerce did relatively little to restrict either party from trading with enemies of the other, meaning that it would not offer much support for

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107 Prize courts were a specialized type of court that ruled on cases of privateer capture. They were located in port cities, but a privateer did not have to bring their prize into a court in their own country. They could bring prizes into any court where they were allowed to by a treaty. This led to the somewhat awkward situation of a few French privateer prizes of US ships being decided in US prize courts. Petrie’s *The Prize Game* has some good descriptions of prize courts – another (though not exactly the same location or time period) can be found in the chapter “Good and Lawful Prize” in Faye Margaret Kert, *Prize and Prejudice: Privateering and Naval Prize in Atlantic Canada in the War of 1812* (Liverpool, UK: Liverpool University Press, 1997). The essay “French Spoliation Claims” also has information about the corruption in prize courts.
France disrupting US trade with Britain.\footnote{For more on the Treaty of 1778, see David H. Moore, “Constitutional Commitment to International Law Compliance” \textit{Virginia Law Review}, Vol. 102, No. 2 (April 2016), pp. 367-445 and Paul Cheney “A False Dawn for Enlightenment Cosmopolitanism” \textit{The William and Mary Quarterly}, Third Series, Vol. 63, No. 3 (Jul., 2006), pp. 463-488.} Indeed, Article 25 of the treaty stated that it is “Lawful for the Subjects...to sail...and to trade with...Places, Ports and Havens of those who are Enemies of both or either Party without any Opposition or disturbance whatsoever.”

Some cases tried in France hinged on Article 2 of the Treaty, which stated that both nations agreed “not to grant any particular Favor to other Nations in respect of Commerce and Navigation, which shall not immediately become common to the other Party.”\footnote{“Treaty of Amity and Commerce Between the United States and France; February 6, 1778,” \textit{Treaties and Other International Acts of the United States of America}, ed. Hunter Miller (Washington: Government Printing Office, 1931), \url{http://avalon.law.yale.edu/18th_century/fr1788-1.asp}.} The French argument regarding this article was that the Jay Treaty, which the US signed in 1794 with Britain, constituted the US granting preference to Britain in the form of agreeing to a British definition of military contraband that was broader than the French definition and included many items commonly found on peaceful vessels. Either because of a misunderstanding or a bad faith analysis of the text of the treaty, the appellate tribunal that handled many ship capture cases in France interpreted Article 2 as allowing France to adopt any of the regulations that the US agreed to with any other country, rather than as a reason why the Jay Treaty was invalid.\footnote{One example of this can be found in the Decree of the Executive Directory, 12\textsuperscript{th} Ventose, 5\textsuperscript{th} year in \textit{Message from the President...Instant} (Philadelphia: House of Representatives, Printed by W. Ross, 1797). Rafe Blaufarb, “The French Revolutionary Wars and the Making of an American Empire, 1783-1796” in \textit{The French Revolution in Global Perspective} (Ithaca NY: Cornell University Press, 2013) has some material on the French relationship to the Jay Treaty and the Treaty of Amity and Commerce of 1778.} This judgment meant...
that French courts could apply the standard of contraband that the US agreed to with Britain in their own cases, even when the US had not actually violated French laws around contraband. Like some of the other French justifications for condemning ships and cargo, the legal ground this argument rested on was fairly unstable, possibly because the true reason for the captures was political, and the judicial system had to support it without a basis in international law. With that said, basing it on the established precedent of the 1778 treaty gave it at least the appearance of legality, as well as placing these disputes against the background of an amicable relationship with the US. Leaning too heavily on the treaty of 1778 was a dangerous area for French prosecutors, as the very seizures that they were trying to support using the treaty were violations of that same treaty. Anyone looking for a case against a US ship that would stand up to scrutiny would either have to use the 1778 treaty and hope it was never challenged, or seek alternate avenues of legal support.\footnote{For more on French violations of the treaty of 1778 and their acknowledgement of same, see William Stinchcombe, “Talleyrand and the American Negotiations of 1797-1798,” \textit{The Journal of American History} 62, no. 3 (December, 1975), 576-581.}

One solution for the legal problem of supporting illegal captures was the flood of decrees and laws that France passed in the 1790s, which legalized the behavior that violated its treaties. The decree of the 9\textsuperscript{th} of May, 1793 authorized the seizure of enemy property on neutral vessels, while the decree of the 19\textsuperscript{th} of May of that same year authorized the seizure of property that was headed for an enemy port, even if it was on a neutral vessel.\footnote{“Copy of a Decree of the National Convention, of the 19\textsuperscript{th} of May, 1793,” in \textit{Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States, Residing in the City of Philadelphia, Referred to him, by order of the House, on the Seventh of May Last}, (House of Representatives, 1797), 10.} A ship attempting to follow the law would have found it difficult to
follow these laws, partially because it was difficult to know what the law was at any
given moment, since the decrees were extremely vulnerable to change. The
aforementioned decree of the 9th of May, 1793 was passed and repealed five times in
three years, with two of those reversals taking place within two months of the first time it
was passed. In a way, the confusion that this uncertainty caused was a feature, not a bug, since the decrees were intended to entrap ships. Any court case using these rulings
provided legal cover for considering any ship with any connection to Britain as a fair
capture. However, arguments based on decrees such as these were still not the most solid
basis upon which to condemn property. In the absence of a blockade or contraband, the
decrees themselves were a violation of international law.

Though it theoretically had more backing than some of the other decrees of the
period, rules created about the rôle d’èquipage were more of an attempt to engineer an
illegal situation out of a legal one than a legitimate attempt to find wrongdoing. The
decrees that required vessels to carry a rôle d’èquipage, essentially a list of the ship’s
crew, opened a loophole for cases revolving around paperwork. The rôle d’èquipage was
not one of the standards that was regularly carried during this period, so making it a
requirement made a lot more vessels vulnerable to seizure. One of the decrees that
affirmed the rôle d’èquipage requirement, that of the 12th Ventose, 5th year (March 2nd,
1797), referred to the paperwork as though it was required in the 1778 treaty, citing
Article 9, theoretically tying it to a solid and agreed-upon legal footing. However, the

“Decree of the Executive Directory – 12th Ventose, 5th Year” in in Message from the
President...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
114 “Decree of the Executive Directory – 12th Ventose, 5th Year” in Message from the
President...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
treaty does not mention a rôle d’équipage, and Article 9 is an explanation of the fishing rights that the US and France would have in each other’s territories, and the consequences for fishing illegally, with very little to do with required paperwork. The other articles that were sometimes used as backing for the rôle d’équipage rule, 25 and 27, were also a mixed bag. Article 25 specifically says that the presence of citizens of an enemy nation on a neutral ship (the purported reason for wanting a rôle d’équipage) was completely legal as long as they were not actually in the enemy nation’s army. Article 27 does require vessels to carry documentation of its captain’s name and place of residence, but makes no mention of that requirement for the rest of the crew. Requiring a rôle d’équipage helped more with ensuring seizure than with any legitimate investigation.

There was a solution that was much more sustainable: instead of justifying illegal actions of French privateers, look for places where US crews had actually broken the law. This practical course of action put focused on the place where the law was on the French side: in bureaucratic minutiae. Many of the justifications of ship condemnation by the appellate maritime tribunal in France had a backing in some interpretation of both French and international law, but the majority of the argument was a painstaking dissection of the captured vessel’s paperwork. The 1778 treaty between France and the US was reasonably specific about the type of paperwork that was necessary for any voyage, and made it clear that some paperwork irregularities were enough to seize both ship and cargo. Some of the opinions put out by the council of prizes were written by Jean-

Étienne-Marie Portalis, a man who at times seemed to take genuine delight in presenting his argument like a detective’s denouement. Portalis stated that the captain of the Republican understood the law and outlined all of the ways in which the Republican was out of the reach of the court, making his task in obtaining a conviction sound more and more impossible.\textsuperscript{116} It would appear that all hope was lost until the last act of Portalis’ argument, in which he revealed that the captain’s knowledge of the law was actually an admission of guilt since he, Portalis, had discovered an inconsistency in the signatures in the captain’s passport. He concluded with a flourish, writing “Un acte n’est rien s’il n’est signé” [an act is nothing if it is not signed], and condemning the ship.\textsuperscript{117}

In other cases, Portalis would recount in detail the series of deductions he had made in order to uncover the treachery of the captain of the ship on trial: many cases hinged on his belief that a signature may have been forged or applied with a stamp, and that almost every ship was concealing a secret stop in a British-controlled port. In the case of the Union, Portalis focused his analysis on one particular phrase that he believed was written in different handwriting than the rest of the document, the handwriting of a

\textsuperscript{116} Portalis also emphasized that he considered the ship to have violated the treaty of 1778 on ideological grounds, but that was not the crux of his case so he largely disregarded it (also, there was not article in the treaty to support his claim that the ship had violated the spirit of the law).

\textsuperscript{117} Decision Relative du la prise du naivre le Republican, (Paris: L’Imprimerie de la République, Year 8), 1-10. Without a careful examination of the documents that Portalis cited, there is no way of knowing whether there was actually an irregularity with the signature on the Republican’s passport. It is, however, worth noting that finding an irregularity in the signature on a passport was something that Portalis did relatively frequently, sometimes positing an elaborate plot around the supposedly forged signature, and in at least one other case where there was no other evidence of wrongdoing and obtaining a conviction without a signature irregularity would have been impossible.
person who sought to subvert the court.\textsuperscript{118} This could very well have been the case, but the pattern of relying on paperwork to do the legal heavy lifting in French seizure cases suggests that some of the weaknesses in the more broadly applicable laws were recognized at the time by the people who had to use them to support their judgments. Using minor irregularities in paperwork to confiscate entire ships could seem like overkill, but maintaining a basis in laws that were not created for the sole purpose of justifying more seizures perpetuated the image that the procedure as a whole was legal, and that France was still conducting international business as usual.

Even though using paperwork errors was a relatively solid interpretation of the treaty between the US and France, it was by no means an ideal strategy. Article 27 of the 1778 treaty stated that vessels were required to have a passport that was filled out, but did not say that cargo would be forfeit without a passport. It is probable that the justification for seizure comes from a section of Article 27 that states that passports were necessary because without them it was impossible to know “that the Ship really & truely belongs to the Subjects of one of the Parties,” and if it cannot be proved that the ship belongs to an ally, it could belong to an enemy, in which case there is a lot more leeway for seizure.\textsuperscript{119} Enforcing a massive campaign of ship captures on the strength of forgotten or supposedly forged signatures may have been sustainable, but it did not always look like an airtight legal case. The lack of explicit language tying lack of signatures to condemnation may

\textsuperscript{118} \textit{Decision Relative du la prise du Naivre Americain l’Union}, (Paris: L’Imprimerie de la République, Year 8), 1-10.
have eventually become a problem, since the Directory passed laws that retroactively and specifically supported targeting signatures, like the 1797 Decree of the Executive Directory of the 12th Ventose, focused blank or forged paperwork. The decree was not subtle about its purpose: to back up the many legal cases against US ships. Though the law would theoretically apply to every neutral nation, the only nationality mentioned is “American.” Portalis would no doubt have approved; his appreciation for strict adherence to the rule of law was another rhetorical theme he frequently returned to, asking “A quoi servirait de se conformer aux règlements, si les pensées capricieuses de l’homme prévalaient sur l’autorité de la loi?” [“What would it serve to comply with regulations, if the capricious thoughts of men prevailed over the authority of the law?”] even as the law was adapted to conform to thoughts such as his own.

C. Keeping Seizures in the Caribbean

The legal justifications for the condemnation of US ships in Caribbean ports were, on the surface level, quite similar to those in courts of the metropole. When it came to cases tried in Caribbean ports controlled by the French, there was a similar emphasis on the treaty of 1778, as well as the decree of the National Convention on the 19th of May. In some cases, the agents of the Directory in the Caribbean would act together and issue decrees that adapted existing French decrees to specific situations in the Caribbean, but they also issued some that were much more permissive than their metropole counterparts.

120 “Decree of the Executive Directory – 12th Ventose, 5th Year” in Message from the President...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).

121 Decision Relative du la prise du Naivre Americain l’Union, (Paris: L’Imprimerie de la République, Year 8), 1-10.

122 The majority of the cases in French Caribbean ports were tried in major cities in St. Domingue and Guadeloupe. There were also a number of French seizures tried in the Spanish colonies of Cuba and Puerto Rico.
One such decree, made by several officials in the Windward Islands, targeted ships carrying horses, but also left a loophole allowing privateers to seize property from neutral vessels without bringing those vessels into port for a trial. From the outside, it could be hard to tell when the governments in the French Caribbean were simply carrying out the will of metropole, and when they were operating independently. Timothy Pickering, the US secretary of state, was taken aback by a decree from French officials in the Leeward Islands that specifically targeted US vessels, but even he, the chief diplomat of the United States, did not seem to know on which side of the Atlantic the idea behind the decree originated. A report from his office describes the Secretary as “presum[ing] that this is not an arbitrary, unauthorized act” of the Leeward Island governments. He based that presumption on the report of an official in Spain that referred to an unidentified French decree that may have said that same thing as the Leeward Island decree, which is to say, it was an assumption based on less than perfect information. For all he knew, there could have been no decree from France, just colonial governments, or even individual privateers, who were making up their own rules as they went along.

While US paperwork in French courts was subject to intense scrutiny in order to uncover elaborate forgery plots, US paperwork in Caribbean courts had a tendency to disappear. In the case of Mark Hatch and the Delight, Hatch claimed that the captain of

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123 “Extract of the registers of the special agency of the Executive Directory to the Windward Islands,” in *Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States, Residing in the City of Philadelphia, Referred to him, by order of the House, on the Seventh of May Last*, (House of Representatives, 1797).

124 “Report of the Secretary,” in *Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States, Residing in the City of Philadelphia, Referred to him, by order of the House, on the Seventh of May Last*, (House of Representatives, 1797), 7.
the privateer who captured him took Hatch, the Delight, and the Delight’s papers to Puerto Rico while a representative of the privateer went to St. Domingue and got the cargo condemned.\textsuperscript{125} According to the registry of the tribunal of prizes in St. Domingue, the Delight was condemned because of inadequate paperwork. According to Hatch, the paperwork was never in St. Domingue until after that judgment.\textsuperscript{126} If the tribunal was actually intending to circumvent the law, confiscating the paperwork and getting a condemnation would not be enough, since the captain could prove the condemnation to be false once his paperwork was returned to him. If Hatch’s papers were never returned, all he would have to support his claim was his own statement. As will be discussed in the next chapter, the US State Department could find that cases of wrongful seizure that relied on a captain’s had insufficient evidence. Ensuring that the captain’s story was all he would return with would make it easier to claim that both the law and the evidence were on the side of condemning a ship or cargo. It was common for papers to be confiscated in a privateer seizure, but if there was an intent to support false condemnations, it was necessary that the paperwork never be returned.

In many cases, this was exactly what happened. The owners of the Dispatch wrote out a “declaration” decrying their treatment by the French in St. Domingue. They declared both that they had “all…papers, required by law to evidence that the property was bona fide and wholly American” and that the crew of the Dispatch had not

\textsuperscript{125} This representative was a prizemaster, a member of the crew of a privateer who was often put in charge of the prize ship. Often this meant boarding the ship and directing it into port.

\textsuperscript{126} “Schooner Delight (Hatch) Commonwealth of Massachusetts,” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
“concealed or destroyed” any papers. Thomas Lunt, master of the Dispatch as well as one of the owners of the ship, claimed that once the papers were gone, his ship was lost. He tried to attend the trial, “but was refused, being told that the place was sacred and no person admitted there” (this may or may not have been related to the fact that, unlike many other captains, he wrote that he had attempted to attend the trial with an attorney). After the condemnation, he was not only told that his papers would not be returned to him, but was “denied even a sight of them.” This was not an uncommon occurrence. Daniel Gorton of the Success remembered that after the cargo on the Success was condemned, and the ship itself was released, he was still not given back his own papers, or any documentation that the condemnation had even occurred. He was told to just take his ship and leave.

Although ship captains had a vested interest in claiming that their paperwork had been tampered with, as it would make them appear more blameless in any potential seizure, the pattern of these occurrences suggests that in some courts and for some privateers, control of a vessel’s papers was an efficient shortcut even for laws in their favor. The above are only the most typical examples. Josiah Hempstead actually got into the room where his ship’s fate was being decided, and, upon seeing that his paperwork was being ignored, attempted to read some of it aloud. The colonial official he was there

127 “Declaration of the Owners of the Brig Dispatch,” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
128 “Ship Success,” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
to see, upon hearing his recitation, promptly got up and walked out of the room.¹²⁹ The crew of the *Kitty* remembered a more dramatic occurrence, where after their ship had been taken they observed the captain and crew of the privateer throwing the *Kitty*’s papers overboard, and watching helplessly as a great deal of evidence was washed away in the waves.¹³⁰ Just as in the case of the *Delight*, the difficulty with these accounts is that the crime they are reporting carries with it an inherent lack of evidence, since any reason why the French would not want the captains to regain their paperwork probably resides in the paperwork itself. Just as the cases of ships captured and taken to France often turned on minute errors, ship seizures in Caribbean courts were more likely to get their strength from the ambiguity that continues to cast doubt on the stories of both the captured and the capturers.

D. The US and the Caribbean

Secretary Pickering may not have known exactly who was giving the orders in the French Caribbean, but it was very clear that the area was the locus for the threat of French privateers. William Handy was far from the only person to know that the shipping routes through the Caribbean were the most dangerous in terms of likelihood of a capture. Between 1795 and 1797 a group of Philadelphia merchants petitioned the US government to pay more attention to the seizure of their property and to press the French for its return. In their petition, the merchants referred to the Caribbean route as carrying

¹²⁹ “Deposition of Josiah Hempstead, master of the Brigantine Patty, which, ship and cargo, were the property of Justus Riley, merchant of Wethersfield, CT,” in *Report of the Secretary of State...Last*, (House of Representatives, 1797), 10.

¹³⁰ “Ship Kitty. (McPherson.),” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
with it “a greater risk than attended any other branch…of trade.” Though the petition was written later in the 1790s, the writers trace the beginning of this unusual threat in the Caribbean to the year of the Navigation Act, 1793. Despite knowing the danger, the merchants who wrote the petition saw the solution in monetary reimbursement from the government, not in altering or discontinuing their trade routes. The petition itself shows why: its writers count their losses in “millions of dollars.”131 This trade was very lucrative, and the fact that this is the sole barometer for danger the merchants used suggests that the monetary losses outweighed any danger to captains or crews in their opinion.132

More permissive government regulations, less clarity on supervision from the central French government, and the lucrative nature of the trade: all of these factors can account for the high rate of seizure in the Caribbean. However, it is possible that local political issues played a role in the frequency of seizures as well. In their petition, the Philadelphia merchants wrote that their trade routes in the Caribbean were valuable to...

them, but also to the people they traded with, since the US ships brought “supplies that were absolutely necessary to their Colonies and which they could from no other place nor in any other manner be furnished with.”

Part of this is standard for trade with colonies that were geared toward the production of cash crops, but the US ships were not just supplying a colony, they were supplying both sides of a war. Starting in 1791, a slave revolt moved through the colony of St. Domingue, predating the French conflict with Britain that drove so much of the Quasi War. It had its origins in existing issues over sovereignty between the French Republic and its colonies, but the revolutionaries would never be granted the same legitimacy by the US as those of the French Revolution even after they were ultimately victorious. The image of enslaved people overthrowing those who had kept them in bondage caused many in the US and other slaveholding Caribbean colonies to fear that it would spark rebellion among the people that they enslaved. This fear made the revolutionaries unlikely trading partners for the slaveholding US, but

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134 Some complaints in the Quasi War stemmed not from privateer seizures, but from the French government in St. Domingue simply refusing to pay. Walter Stewart of the Active remembered that multiple flour deliveries were not paid for. In the case of the Fair American, the ship not only supplied the government, it also supplied a military fort, Fort Republican, before the government denied payment.

135 For more on the fear of revolution spreading within the Caribbean, see Ada Ferrer, Freedom’s Mirror: Cuba and Haiti In the Age of Revolution (Cambridge, UK: Cambridge University Press, 2014) and the chapter “Rumors of Freedom in the Caribbean: ‘We know not where it will end’” in Janet Polasky, Revolutions Without Borders: The Call to Liberty in the Atlantic World (New Haven: Yale University Press, 2016).
because they possessed valuable land the US continued to trade even with revolutionary-held ports.\textsuperscript{136}

French privateers were drawn to St. Domingue, or at least they were drawn to it after they had captured a ship and needed a place with a prize court a ready market for the goods the ship carried. Some potential explanations for this, such as friendly courts or more privateer owners, were equally prevalent and possibly stronger in Guadeloupe.\textsuperscript{137}

The frequency with which captured ships were taken to St. Domingue was such a pronounced pattern that it was the only trend within ship capture data that the US government tracked once there was a more general recognition that the French were targeting the US. The federal government’s 1798 report on French ship seizures separated all of the captured ships it documented into two categories: those that had been taken to St. Domingue after they were captured, and those that had not. No matter what the ship’s original destination was, once it was captured there was good chance both ship and cargo were headed for St. Domingue.

\textsuperscript{136} For general resources on the Haitian Revolution, see Jeremy D. Popkin, \textit{You Are All Free: the Haitian Revolution and the Abolition of Slavery} (Cambridge, UK: Cambridge University Press, 2010), which includes useful analysis of the Revolution’s effect on Cape Français; also Laurent Dubois, \textit{Avengers of the New World: The Story of the Haitian Revolution} (Cambridge, MA: Harvard University Press: 2004), and Malick W. Ghachem, \textit{The Old Regime and the Haitian Revolution} (Cambridge, UK: Cambridge University Press: 2012). For more specifics of trade during this era, see the chapter “I Put Fear in the Hearts of Those Who Engage in This Trade: French Efforts to Isolate Haiti in the Atlantic World” in Julia Gaffield, \textit{Haitian Connections in the Atlantic World: Recognition after Revolution} (Chapel Hill, NC: University of Chapel Hill Press, 2015).\textsuperscript{137} Victor Hughes, the French commissioner of Guadeloupe during this period, heavily utilized privateering as a method of confronting his enemies. He controlled both a large fleet of privateers and the colony’s prize court, making it both a big source of privateers and a friendly court for them to take their prizes. For more, see H.J.K Jenkins, “Guadeloupe, Martinique and Commerce Raiding: Two Colonies in Conflict, 1797-1798,” Revue Française d'Histoire d'Outre-Mer 78, no. 293 (1991), 469-473.
Figure 1: This map is based on one of the most comprehensive reports that the US government commissioned on the Quasi War ship captures and documents which ports the captured vessels were brought to.

One of the issues that may have informed the contentious relationship between the US maritime industry and the courts in St. Domingue was that the US was not only trading with both sides in France’s war with Britain, but with all sides of the Haitian Revolution. In 1797 the agents of the Directory in the Windward Islands issued a decree that gave a wider latitude for capturing ships, promising punishment for anyone who attempted to hide a visit to an enemy port by listing a vessel’s destination as “West Indies” (this was a not uncommon tactic, as was listing “St. Domingo” as a destination instead of a specific port, possibly to disguise whether the vessel was headed to a port controlled by the revolutionaries). The decree also allowed a ship of any nationality with a commission from a port controlled by the British to be captured and punished as though they were pirates. Though this latter designation suggests that the French/British war and the antipathy that arose from it was the chief motivating factor in this decree, the rest of the decree tells a different story. The sections about British aggression mostly repeated
older French talking points about what rights the French are “entitled” to. Even though the decree itself could apply to any nation, it is clear that the US was the target, since there is an entire section devoted to the treaty of 1778.138

The language around the treaty was standard, up until it got to the reasons why the writers of the decree felt that they need to take action. The last reason, the coup de grâce, is that “permitting neutral vessels…to carry provisions of war and subsistence to men evidently in state of rebellion, would be to prolong civil war, and the calamities and crimes flowing therefrom.” Though the decree never names the rebellion or the men in it, it is very likely that it is referring to the Haitian revolutionaries, and entirely clear that these revolutionaries filled the writers of the decree with contempt. Earlier in the decree, they describe their objection to US trade with the revolutionaries as being because “it is against every principle to treat a hord [sic] of insurgents, destitute of country, without government, and without a flag, with the same respect as civilized nations preserve toward each other….”139 This phrasing suggests that whatever the rest of the decree states, its writers had less concern with the conflict that US trade was fueling, and more with the fact that the US was willing to trade with people who they did not deem “civilized.”140

138 “Decree of the Special Agents of the Executive Directory, to the Windward Islands” in Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States, Residing in the City of Philadelphia, Referred to him, by order of the House, on the Seventh of May Last, (House of Representatives, 1797).
139 “The Special Agents to the Executive Directory of the Windward Islands,” in Report of the Secretary of State…Last, (House of Representatives, 1797).
140 The use of this quote should not be taken as evidence that because the US traded with the revolutionaries US citizens had less of the racist views expressed by the French officials. For the most part, US trade and the support the revolutionaries received from the federal government under President John Adams were a matter of pragmatism or political expediency, not acknowledgement of the equality or humanity of people of
In some ways, the tone of this decree is as remarkable as the content. The thinly veiled animosity, not only toward the revolutionaries but toward the US merchants who would trade with them “against every principle,” would have been out of place in the correspondence of most French diplomats from the metropole. Much like their counterparts in the US, French officials wanted to keep the diplomatic relationship with the US alive and give the appearance of normality, and so even when discussing contentious matters, many chose to do so courteously, like Deforgues, or with attempts to bring the US around to their side, like Barère. However, considering the source of the decree, the tone may not have been remarkable at all. One of the authors of the decree was Jean-Baptiste Victor Hughes, colonial administrator of Guadeloupe, and villain of protests and newspaper reports about the Quasi War. Several captains returned to the United States with wild stories about Hughes, casting him as both unpredictable and vindictive. The most dramatic of these tales came from Josiah Hempstead of the Patty, who remembered that, when he was brought in front of Hughes, the Commissioner was monologuing about his distaste for the government and citizens of the United States.

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color. In fact, many Americans fear the Revolution would spread to their shores, and that the people they enslaved would rise up against them. This was the genesis of the Negro Seamen Act, and of the rumors that Haitian Revolution was especially bloody when compared with other Revolutions, like the American or French. was a complicated figure. He wanted his government in Guadeloupe to de-emphasize race as the sole arbiter of social advancement and untied former slaves and with the existing army to fight against the British, but at the same time sought to limit the rights of the emancipated. It is unclear exactly who he and Lebas, his co-author of the Windward island were talking about, since, when it was written, some of the original revolutionaries had formed alliances with the French, but he may have been referring to the territory held by André Rigaud that was not under French control. For more on Victor Hughes’ administration and its ideological background, see Laurent Dubois, “The Price of Liberty: Victor Hugues and the Administration of Freedom in Guadeloupe, 1794-98,” William and Mary Quarterly 56 (1999): 363-392.
When Hempstead got close to Hughes, the Commissioner clenched a fist and ran it close to Hempstead’s face as he crowed “I have confiscated your vessel and cargo, you damned rascal.” Along with authoring decrees that more explicitly targeted the US as well as personally controlling privateers who he directed to target US ships, it appears that Hughes may have had a certain amount of personal animosity toward the United States. Whether this animosity stemmed from the US trade with the Haitian revolutionaries or whether his disgust at that trade grew out of an existing dislike for the US, his conduct is worth noting. Hughes’ tone demonstrates not only the ways in which colonial officials could act autonomously with relatively little consequence, but also that the Quasi War could be a very different conflict depending on which side of the Atlantic a vessel happened to be on. It could be the more tightly controlled legal obstacle course of a French capture, or the more ambiguous but also more lucrative world of a French Caribbean capture (another difference: once the US navy got involved, Caribbean captures were far likelier to involve a naval battle). However, Victor Hughes’ actions also suggest that the stakes may have been different in the French Caribbean. The Philadelphia merchants petitioning the government wrote that the goods they brought to the Caribbean were vitally important to the people there, but that importance was a two-way street. The merchants lost millions and kept going back because the trade routes were so valuable to them that millions in lost property was not an entirely unacceptable cost of doing business.

That Victor Hughes was so comfortable being openly

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142 “Deposition of Josiah Hempstead, master of the Brigantine Patty, which, ship and cargo, were the property of Justus Riley, merchant of Wethersfield, CT,” in *Report of the Secretary of State...Last*, (House of Representatives, 1797), 10.
143 The effects of the Quasi War on Trade with the Caribbean exacted a toll on the total US profits in the Caribbean. William Nestor cites calculations that US trade with the
provocative with an allied nation and did not feign more respect for the rule of law, could indicate that he saw this relationship for what it was: one that US merchants could not afford to lose.

Victor Hughes is good for some colorful stories, but more than anything he is the exception that proves the rule. Hughes used the power dynamics between the US and France more openly than most, but even he stopped short of directly acknowledging a metropole-sanctioned French campaign directed at the US; to do so would be to acknowledge illegal behavior, not just personal dislike. Throughout this chapter, it is possible to get the impression that in most cases the necessity of maintaining a trading relationship acted as a bridle on both French and US diplomats, keeping both sides from fully and actively engaging with the reality in front of them. This impression is largely correct. That is not to say that there were no other exceptions, no one in a position of power who took the threat seriously and addressed it directly. There was one. His name was Fulwar Skipwith.

Fulwar Skipwith was the Consul-General of Paris, and in the mid 1790s he often seemed like the only US official who regarded noticing or reacting the Quasi War to be a part of his job description. Just one year after the Navigation Act of 1793, Skipwith had already conducted his own investigation of the ship captures. Although Skipwith wrote that the man he submitted his report to, US Minister to France James Monroe, had requested the report (though not the investigation), it does not seem to have been regarded as a high priority. Monroe eventually presented the complaints to the

Committee of Public Safety, but did not press the issue further. Skipwith listed the “hardships” that the US had suffered at the hands of the French on the high seas and did not pull punches, calling the captures “indiscriminate” and the privateers “vessels of war.” More than anything, Skipwith’s letter indicates that the extent, tactics, and deliberate nature of the French captures was knowable years before the US Federal government admitted that they knew about it. Skipwith describes in great detail the system of captures that the French used:

“The seizure of our vessels at sea often gives rise to the most serious and well-founded complaints;--the stripping them of their officers and crews, who are generally replaced by boys…the confinement of our sailors taken out of these vessels, the seals upon their cargoes, and above all sending the papers to the Commission of Marine…months elapsing before the Captains can get their clearances and papers, many of which are often lost or mislaid…”

At times, Skipwith had the tone of someone who had been worn down by his job. Even after accounting for dozens of vessels, Skipwith wrote to Monroe “I cannot give you ample detail of all the inconveniences and oppressions which have been thrown upon our commerce” because he was still constantly receiving new documentation of it. He concluded “besides it would take volumes to explore [the captures] at full length.” If Skipwith was worn down, it was probably because he took an active role in combatting the captures from the beginning. Attached to his letter to Monroe was a list of every individual capture he had investigated. Though some parts of it read like an itemized

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145 “Letter from Fulwar Skipwith to James Monroe, Minister Plenipotentiary of the US.,” in Report of the Secretary of State...Last, (House of Representatives, 1797), 12.
146 “Letter from Fulwar Skipwith to James Monroe, Minister Plenipotentiary of the US.,” in Report of the Secretary of State...Last, (House of Representatives, 1797), 11.
receipt of property lost, Skipwith periodically slipped into the first person, detailing the
decisions that he took on behalf of the captured vessels, writing that in the case of the
Carolina “I have remonstrated against the illegality of the proceeding” but still reported
that “no determination” had been made.147

Even more unusually for a government official, Skipwith appeared to care about
more than just the monetary losses of the seizures. He filed claims for damage to
property, but also for harm done to the people on captured vessels. In the case of the
Henry, Skipwith attempted to get compensation for Henry Hodge, the captain who had
been captured and imprisoned on the ship.148 More generally, he directly acknowledged
that the French campaign against the US posed a risk to the US citizens on the vessels.
He introduced his report to Monroe as a catalogue of “the incessant abuses and vexations
practised [sic] daily upon our merchants, vessels, captains and crews.”149 Though he
listed the humans last, in most documentation at this time, they do not even rate a
mention. As one of the only people who seemed to take the maritime threat from France
seriously, Skipwith was in a position to make a suggestion that few others would put into
writing. In the first few sentences of his report to Monroe, he wrote that if the French
government did not change their behavior “the trade of the US with France must
cease.”150 It does not appear that anyone actively considered this proposal, but the fact

147 “A Statement of the Claims of Citizens of the United States upon the French Republic
presented by Mr. Skipwith, Consul-General of the United States, at Paris; and also of his
proceedings and remarks upon them, viz.,” in Report of the Secretary of State...Last,
(House of Representatives, 1797).
148 Ibid.
149 “Letter from Fulwar Skipwith to James Monroe, Minister Plenipotentiary of the US.,”
in Report of the Secretary of State...Last, (House of Representatives, 1797), 11.
150 Ibid.
that one of the US officials closest to the conflict saw it in such dire terms underscores the gravity of the situation that everyone else was choosing to ignore.

As much as Skipwith felt that the situation was important, he knew that this was not news that anyone wanted to hear. He wrote that “it is with real regret…that I find myself obliged, the duties of my station requiring it, to present to your view so many complaints of so serious a nature.” Skipwith understood his duty, and that that duty was complicated. He knew that it was his duty to find out about the attacks on his country by one of its closest allies. He knew that it was his duty to report to his superiors. He also knew that part of his duty was not to go rogue, not to upset the balance of power even in the face of a clear and present danger. In his correspondence with Deforgues, Gouverneur Morris told the French foreign minister that he knew that there were elements of the prize courts that were biased against the defendants, and that US citizens were constantly bringing new stories of French seizures to his attention. However, he reassured Deforgues that “I always send to the tribunals the injured persons, by giving them the most positive assurances that they will there obtain complete and prompt justice.” In other words, he told the minister that he regularly lied to the US citizens. He could have been lying to Deforgues and not to the complainants, but the fact that naming the realities of the situation with France in a public forum would have been a bridge too far demonstrates the degree to which the appearance of legality and normal diplomatic relationships were important to both countries.

Skipwith’s report contained records of thousands of dollars lost, legal challenges ignored, and Americans imprisoned, but he ended it just like every other bureaucrat of the Quasi War with the maxim that would prolong the conflict while keeping it undeclared:
“it will ever be my effort to cultivate…a good understanding between the citizens of our country and those of France.”\textsuperscript{151} For the first four years of the Quasi War, from 1793 to 1797, this one phrase would be a far more accurate depiction of the US understanding of its relationship with France than any of the speeches, decrees, or letters discussed in this chapter, or anything else that Skipwith had to say in his report. It would take something more remarkable than a diplomat doing his duty to his country and his countrymen to wake the US from its intransigence.

\textsuperscript{151} “Letter from Fulwar Skipwith to James Monroe, Minister Plenipotentiary of the US.,” in \textit{Report of the Secretary of State...Last}, (House of Representatives, 1797), 15.
CHAPTER III

“NO DOUBT THEY WILL PLUNDER CONSIDERABLE”

For two men who were held prisoner two years apart on opposite sides of the Atlantic, William Brooks and Andrew Dorr had lot in common. Both men made their living in the merchant trade, though Brooks was a seaman and Dorr was part of a Boston merchant family. Both had been taken prisoner by agents of the French government. Both captures were a result of the ship seizures that would lead to Quasi War. Both men would fight to have their experience during the conflict validated, to have an official ruling to confirm that their account of this undeclared war was not just a story they were telling, but a truth about something bad that had happened to them. Both men ultimately sought this judgment from the Dorr family, though that desire was a bit more personal for Andrew Dorr.

Over the course of several French captures, Dorr and his family came to understand the events that would later be called the Quasi War as part of a larger conflict, not simply unfortunate occurrences that kept damaging their family business. William Handy’s strident opinions about the overreach of French power seem to have been based as much on his understanding of the larger international political situation as any fears he may have felt for himself. The Dorr family story shows a different kind of political awareness: how some Americans came to understand the Quasi War not through the political, but through the personal.

A. The Dorrs

The Dorr family of Boston became prosperous largely due to the will of one man: Ebenezer Dorr. He started out as a tanner and leather dresser, but transitioned into
speculating on shipping ventures, and eventually buying his own ships, which he and his sons sailed all over the world. Dorr’s fortunes improved rapidly over the course of the 1790s, with a few very successful shipping investments in 1792 and 1793. Eben, as he was commonly called, seems to have encouraged this image of himself as a patriarch: despite his father and grandfather both being named Ebenezer, he called himself Ebenezer Sr. or did not include any suffix, and his eldest son was nearly always referred to as Ebenezer Jr., not Ebenezer IV. Eben was a new beginning for the family, and he intended them to grow in power and esteem. He made sure all of his children were educated, some by private tutors, until they were more accomplished than he had ever been. Eben Dorr hardly ever used punctuation in his writing – a long dash strewn here or there would suffice, but all of his children showed not only more standardized spelling, but a command over periods, commas, and semi-colons that he never possessed. He involved his children in the family business early on in their lives. In later years the handwriting on his business correspondence was fairly consistently a tight, thin scrawl, however, in the 1780s, when many of his children were younger and still in school, it was fairly erratic. In the letter book of his of business correspondence, it sometimes resembled his daughter Sally’s wide, slanted, and perfectly ordered script, and several of

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154 School Bill, 26 June, 1786, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
his letters contained near exact copies of the theatrical flourishes that always accompanied his son William’s Ds and Ys.\footnote{Excerpt from letter book, Undated, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society; Ebenezer Dorr, Sr. to Ebenezer Dorr, Jr., 16 January, 1788, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.}

The image of Eben dictating to his younger children is fairly typical of his parenting style. Dorr was a hands-on, if sometimes distant parent. After he died, his son John remembered his role in his children’s lives as “prop, advisor, and blessing” and stressed the ways that he would always try to help his community, whether it was by serving on committees, or in helping his children to acquire fortunes for themselves.\footnote{“Dorr Pages 1-11” John Dorr Family Record, Massachusetts Historical Society, 11.}

Eben frequently wrote to his sons as they, one by one, ventured off into the world of shipping, first as agents of the family business, then as ship owners themselves. These paternal missives had a very distinct format: they opened with a recitation of the letters that he had recently received from his son, and a reprimand if he believed that those letters should have been more frequent. Following this, he made suggestions on how the son should handle various shipping interests. He closed with a statement that the rest of the family was well, without giving any particulars. When he wrote about specific people, it was often because those people were in a position to cost the family money, such as the seaman with a gambling problem that he asked Ebenezer Jr. to fire, or the friend of his son’s who had not paid back a loan.\footnote{Ebenezer Dorr, Sr. to Ebenezer Dorr, Jr., 19 December, 1788, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society; Ebenezer Dorr, Sr. to Ebenezer Dorr, Jr., 15 January, 1789, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.}
In 1783, Ebenezer Jr. departed Boston for several years, and seems to have had a difficult time adjusting to life away from home, though the particulars of his complaint are not clear. It was evidently relatively serious, since his younger brother William responded to one of his letters that “for want of experience, [I] can’t have a just idea of your sufferings, & don’t know how to condole with you.” Eben responded thus: “…I Rec’d yours of the 17 Jany in which you inform me of your hardships I was pleased when I hear’d of your expedition down the North shore I am sorry it has been no more productive.” This is not necessarily to say that Eben was cold; John Dorr remembered his father as a storyteller with an endless supply of anecdotes, and recalled a time when he and his father talked from dusk until dawn without ever wanting to stop. However, one of the chief ways that Eben showed his love for his family seems to have been through his business, whether by trying to help his sons with their careers, or naming his ships the Abigail and the Lucretia, the names of his wife and daughter respectively.

Given that Eben could be businesslike with his children, it is little surprise that the Dorr siblings were much more affectionate with each other than they were with him. The brothers mentored each other: Ebenezer Jr. trained both Joseph and Andrew. On Ebenezer Jr.’s first trip away from home, he received letters from many of his siblings that were mainly devoted to how much they missed him. William Dorr spent the whole first half of his July 5th letter consoling himself about the fact that he had not received a

159 Ebenezer Dorr, Sr. to Ebenezer Dorr, Jr., 18 February, 1788, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
161 Excerpt from letter book, Undated; Ebenezer Dorr, Sr. to Ebenezer Dorr, Jr., 1 May, 1790, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
letter from Ebenezer, explaining that he knew that Ebenezer had gone on a long journey and would not be writing very often, but he would be “very glad” to hear about what Ebenezer was doing, and if he liked his new room. Apropos of nothing, William also wrote that he wished Ebenezer “might find pleasure and happiness wherever [he] may go.” Other siblings were similarly close: later in life, the brothers John and Joseph took to writing letters with one voice. The siblings seemed to unburden themselves more freely to each other; Sally Dorr expressed some of the same sentiments as William, albeit more dramatically, writing to one of her brothers of her fears that he had died, “I am surprised [sic] for not writing to let us know whether you were dead or alive. for my part I did not know but what you were gone to the shades.” In Lucretia Dorr’s letter to her brother John, she broke into a verse about two young lovers forced to part, and birds who sang on a tree repeating her words because they sounded so sweet. Ebenezer Jr. also turned to poetry while away from his family, copying down lines of Alexander Pope while he sailed the seas.

Broadly speaking, Eben filled the role of a patriarch who wanted his family to move up in the world: he had a plan set out for his children, and they were to follow it. Ebenezer Jr., John, and Joseph followed his advice, and they began to partner with him on business ventures: by 1795, most of the Dorr family ships were in all of their names.

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163 Sally Dorr to Unidentified Brother, 17 August, 1789, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
164 Lucretia Dorr to John Dorr, October, 1792, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
Samuel Dorr struck out for China, and eventually wrote memoirs about his voyages to far off lands. The larger events of world history did not seem to touch the family too deeply: one of Ebenezer Jr.’s friends wrote to him excitedly of America attaining “independency,” while Ebenezer Jr. was abroad, engaged in trade with Britain, the country that America had just won their independence from. This is not entirely unusual, and speaks to the degree to which the maritime and political worlds could operate independently from each other, but also implies that the family was not themselves dominated by political concerns. Ebenezer Jr.'s friend had been excited about the new venture his nation was embarking on, but when Joseph wrote about the end of the Revolutionary War, his chief observation was that Boston was now “not near so dull as it has been” because of the “confusion” caused by the peace. When French seizures picked up in the mid 1790s, at least four of the Dorr brothers were already established in the business world. One of the younger Dorr brothers, Andrew, was getting ready to take his first steps into the family business. What none of the Dorrs knew was that the Quasi War was about to make them take notice of world events, whether they wanted to or not.

B. The Ariadne

The official record of Joseph and John Dorr’s Ariadne during the Quasi War makes it look like a success story. Ship records will tell any reader that it was a 272-ton

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ship, built in Falmouth in 1790, with a crew of 35, and 14 guns.  The latter number is significant. The *Ariadne* was not just an armed merchant ship; it had an official commission from the government that allowed it to carry arms and authorized it to use them. This would theoretically provide some protection, both from an attack and from a legal challenge to their possession of contraband. The *Ariadne* was given the commission on April 3rd, 1799. On April 29th, Captain Moses Brown of the U.S. naval ship *Merrimack* hailed the ship as it made its way to Jamaica. There the official record of the 1790s ends. A ship had guns and was under the watchful eye of the US military. All was well. Only after the war was over does the official record begin to tell a different story.

In March 1806, a Suffolk County Massachusetts court settled a matter of back pay to a seaman. The case was more interesting, and much more complicated than it looked. William Brooks, the seaman on the *Ariadne* whose imprisonment and its aftermath were discussed in Chapter One, had left the port of Boston with his crew on a journey first to Charleston, then to London. During the second leg of their journey, on March 12, 1800, French privateers took the ship. It is at this point that the paths of the men on the ship diverge. One group, including Captain John Le Basquit, never left the ship; the privateers took them to Spain, where they remained for months while the French decided if it was legal to condemn the *Ariadne*. Brooks, and some of his fellow seamen, were taken onboard the privateer’s ship, and then taken to France, where they were

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imprisoned, at Quimper and then released into the house where Brooks would write his despairing letters to P.F. Dobrée discussed in chapter one. Brooks, the rest of the crew, and the *Ariadne* were all ultimately released, though on slightly different timetables. Brooks returned to Boston as soon as he could, so he arrived either in late summer or early fall of 1800. The rest of the crew and the *Ariadne* were not released until December 1800, whereupon they finished their journey to London, arriving back in Boston in June of 1801.¹⁷⁰

While the *Ariadne* was still awaiting judgment in Spain, and Brooks was in prison in France, the Dorr brothers were in Boston, washing their hands of the entire enterprise. In June of 1800, Joseph and John filed a claim with their insurance agents for a total loss of the *Ariadne*. This was exactly the type of situation that made the high-priced maritime insurance of the 1790s worth buying. While the crew and the insurers had to wait to see if the French would make a judgment in their favor before they would know if they were getting paid or recouping their losses respectively, the Dorr brothers could reinvest their money and move on to other things. The insurers eventually managed to sell the cargo and the *Ariadne* a year later, and everyone was paid.¹⁷¹ Everyone but William Brooks.

When William Brooks sued the Dorr brothers for his pay in 1806, the brothers’ attorney presented a two-pronged argument: the *Ariadne* was not the brothers’ problem,

¹⁷¹ Ibid. Captains and crew were paid most or all of their wages out of the sale of the cargo on the ship, so if the cargo did not sell, it was unlikely they would get paid. This added a greater loss to privateer seizures. Indeed, some of the cargo, call the “adventure” often belonged to the captain or a senior officer on the ship, and was to be sold as a personal investment.
and even if it was, William Brooks did not deserve to be paid in full. The first point was relatively easy to argue: they had given the responsibility of the Ariadne to their insurers when they had taken the payout, and that responsibility included any subsequent claims. The second argument seems to have been somewhat of a Hail Mary. Basically, the Dorrs’ attorney argued that the seaman captured by an enemy was actually a deserter, and deserters do not get paid. Every single one of the judges dismissed this argument, spending much of their judgments pointing out how ridiculous it was, before briefly considering the idea of shifting the responsibility for Brooks’ payment to the insurers, but ultimately rejected that idea as well. William Brooks was to be paid.

Perhaps the most interesting moment of the debate lay with the prosecution. William Brooks’ attorney, noted in the court records as W. Sullivan, acknowledged that if Brooks had indeed been a deserter, or if the cargo had been lost, Brooks would have no legal claim. The facts, Sullivan said, proved that Brooks was not a deserter. Now, onto the question of the cargo. The insurers had sold it, so it had not been lost. Moreover, Sullivan brought up the question of why it had been captured in the first place. There were only two reasons: either the Dorrs had created “some defect in the documents of the ship or cargo” or the ship had been captured as a part of a war. However, as Sullivan was quick to point out, “there existed no war at the time between us and France.” Therefore, the fault must lie with the Dorrs. No one else in the courtroom even responded to this argument, so, doubtless it was not the most persuasive, but it does showcase the ambiguous situation that the undeclared war created for the rest of the

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172 Tyng, ed., Reports of Cases Argued, 45.
country. A man in a courtroom bringing suit after being a prisoner of war could say that there was no war, and even though no one else agreed with him, they could not contradict him either.

If this all seems far removed from the Dorr brothers, that is because it was. The fact that they were successful enough to afford comprehensive insurance during the Quasi War meant that they were, by and large, shielded from the conflict’s consequences. They were able to become successful with more ease than most because of their family business, but it was their personal worth that kept them insulated. However, even as their wealth protected them from losing everything, it also made them seem like the people who had the most to lose. The US government was building a profile on the world’s stage, and maritime trade was a huge part of appearing to be the type of nation that the great powers of Europe would take seriously. To the new US government interested in building up wealth and prestige, a small monetary loss happening to a large group of wealthy people was more significant than casualties in a group of less wealthy people. With that said, not all of the Dorr brothers were quite so lucky.

C. The Jane

There are four versions of what happened to the Jane, but all have roughly the same outline. Ebenezer Dorr Jr. bought the ship in 1792, and sailed as its master for two years, then passed it on to Joseph, John, and William Dorr. Sometime between 1794 and 1796, the ownership, either officially or unofficially, passed to Andrew and William alone. In 1796, Captain Thomas Atwood sailed the ship toward Cape François, commonly known as Le Cap, on St. Domingue, the present-day Haiti. Once the Jane had
arrived, the French administration in St. Domingue seized its cargo. Neither the Jane nor its cargo would ever be seen again.

This voyage was, seemingly, Andrew Dorr’s big chance to prove himself to his family. Ebenezer Jr., Samuel, Joseph, John, and William all had investments in multiple ships, Ebenezer Jr. and Joseph had been mentoring Andrew, and now it was his moment. Perhaps the family had an inkling that Andrew was not a safe investment: that would explain why William was his primary business partner. Just from reading their correspondence, it is clear that William was a bit different from his brothers. He invested in the maritime trade, but seemed to accompany the vessels less frequently than the other Dorrs. He did not appear even to have any desire to travel, writing to Ebenezer Jr. “if I had 300 £ well Cay’d out in furs that my future part of life wou’d be very aggreeable [sic] both to me & my friends.” He did not want the maritime trade, he wanted the lifestyle that would come from that trade. More than these differences, William had a penchant for flowery language with more demonstrative emotion than anyone else in his family. He wrote to Ebenezer Jr. “if my good wishes & my assistance wou’d effect [your success], you might command them & I should think myself happy in having a part in so great a work.” In the affair of the Jane William lived up to his previous role in the Dorr family business ventures: he put up half the money, but largely had nothing to do with it.

Looking back on the incident of the Jane, it is almost impossible to see who is telling the truth, but a fairly safe bet that everyone who retold the story was lying, at least

\[175\] William Dorr to Ebenezer Dorr, Jr., 18 February, 1788, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.

\[176\] William Dorr to Ebenezer Dorr, Jr., 18 February, 1788.
in part. The earliest version of the story was a letter in 1796 from Captain Thomas Atwood to Andrew Dorr, which recounted his search for the best price for the Jane’s cargo. Atwood wrote that he could not find a good price in Guadeloupe, where Dorr had told him to sail, and eventually went to Cape François because he thought that business would be favorable there. On “the very day” that he landed, he wrote, the government “demand my Cargo with thout [sic] Payment & I Replied and toald [sic] them That I Could not By no mens [sic] Deliver my Cargo with thout Payment then they took my Papers and a guard of Soagers [sic] On Board.” He followed up on December 3rd with a plan, writing “I depend On the Vessel Being in—Shoared [sic] for I shall abanen [sic] The Vessel and Cargo.” Since he had been forced off the ship on November 22nd and spoke of his abandonment as something in the future, he no doubt meant that he was planning to leave Cape François, not that he was abandoning the ship but staying in the country. In another document, Atwood expanded on the plan, writing that while he was speaking to the French authorities, “I applied to them I would abandand [sic] The Vessel and Cargo in hop [sic] to fright them.” What Atwood did not make clear is why this would work as a threat. Since the French had already shown that they intended to take the cargo and did not intend to pay for it, Atwood would appear to be giving them exactly what they wanted.

Whatever his intentions, the threat did not work. He wrote that the French responded that “they Could not help [his abandoning the ship] For the administration wanted Provisions and Had not wharewith [sic] to make payment…they must take it by

177 Thomas Atwood to Andrew Dorr, 3 December 1796, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
force of armes [sic] from the americans.” 178 The addition of “from the Americans” indicates that it was not merely French need that drove seizures, but a political motivation, as without that, they could take the cargo from any country. Atwood never mentioned the idea that the French were targeting American ships again, and no one else connected with the seizure of the Jane ever commented on it, always writing as though the seizure was a singular incident isolated from any international concerns.

Though Atwood’s account is fairly lengthy, it does not get to the end of the story. The thread is picked up by a chronological account of the Jane’s voyage, written in the third person, in a handwriting that matches nothing else in the Dorr family papers. This document is unsigned, and makes no reference to why it was written. Though it is unclear where it originated, this document is clearly based at least in part on Atwood’s statements, since it references the specific date and location of a protest lodged by Atwood about the French seizure, as well as the name of the notary who heard it, suggesting that the author of this document had read the text of Atwood’s protest. Furthermore, many of the details of the document are about interactions between Atwood and the French government, oftentimes when he was acting alone, which makes Atwood by far the most likely source. However, if Atwood was the main source, his story had changed since he had returned to Boston.

For starters, the timeline is different. In the unsigned version, Atwood asked the government for permission to land twice before the ship was seized, and a full day elapsed between their first arrival and the guards being posted on the ship. Even though

the date was different, Atwood’s original threat was the same; the administration “told Capt. A. that they would have the cargo themselves, to which he replied that if they took the cargo, he should abandon the vessel as well as the cargo.”179 However, in this newer version, the threat seemed to yield some results, since the French immediately offered to pay for the cargo, but on credit, not with cash. This is a far cry from Atwood’s original statement that they had no provisions or money to pay, and so had decided to take what they wanted from American ships. If Atwood did indeed change his story, it is not clear why. The more dramatic interaction of the first letter shows a French government not just hostile to him, but to all Americans, which would make the decision to abandon the Jane seem to make more sense than abandoning a vessel when the government was willing to pay him. However, the biggest discrepancy between the first and second account was yet to come.

In this second version of the boarding of the Jane, the unknown narrator introduces a new set of characters: unruly French soldiers. In this version, after Atwood refused to let the French purchase the cargo on credit, the government declared “…that they would take it by force and immediately put a guard of soldiers…who treated his people with great insult and opened two cask [sic] of wine & made use of it when they pleased….” This account really played up the bad situation that the French put the ship’s crew in, stating three times that the government “would not give [Atwood]…any stores or provisions for him or the people to subsist upon.” In addition, this version added a second group of soldiers on the Jane “who broke the locks and opened the hatchs [sic] &

179 Unsigned Statement, Boston, December, 1796, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
hoisted out the cargo & all the vessel provisions.” The document also cast Atwood’s
departure from Cape François in a different light, narrating it thus: “the Commissioner on
his application refusing him his register & papers and any provisions & store for passage
home, he was forced to abandon & did abandon the vessel.” In this version it appears
as though he was pushed by circumstances to abandon the ship, which is a contrast to his
letters, where that appears to have been his plan all along.

However, confusing things further, the document is not solely based on Atwood’s
perspective, since it records what happened after Atwood left. First, three days after they
had fully acquired the cargo, the French administration found that the cargo they had
taken was short five hogsheads of codfish and some claret from what was on the
manifest, and commenced legal proceedings to formally seize the Jane. These two things
are related: finding the irregularity between the stores and the manifest allowed the
government to make a case for smuggling, which was even easier since Captain Atwood
was no longer in St. Domingue to refute it. By the end of the month, “said Capt. Being
cast for non-appearance the vessel & cargo were confiscated & sold to highest bidder, for
benefit of French Republic.” The document concludes that the discrepancy in cargo was
not caused by error or criminal activity, but “was owing to depredations of the guards.”

If one were to look for a reason why the two accounts based on Atwood’s testimony

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180 Unsigned Statement, December, 1796.
181 Smuggling charges were not as straightforward as they might seem; there was a large
smuggling industry throughout the Caribbean at this time, that was actually important for
the economy, and was often overlooked by law enforcement. The smuggling laws could
be selectively enforced to accomplish other goals, for more, see Bernard Bailyn and
Patricia L. Denault, ed., Soundings in Atlantic World History Latent Structures and
182 Unsigned Statement, December, 1796.
differ, the key lies in this phrase. Atwood’s first letter mentions that there were guards “On Board” the *Jane*, but makes no mention of them having any interest in the stores. However, the second document states that not only did they plunder the cargo, but they had an interest in exactly the item that was later found missing: the wine. This does not mean that Atwood was lying, but if he was not, it strongly implies that by the time he made the statement this document is based on, he was aware of the charges against him, and needed a new villain for the story that would take the focus off of him, so the French interest in the stores became more relevant to his account.

Andrew Dorr was not ready to give up on the *Jane*. The ship was gone, the cargo was gone, but he was convinced that the possibility for restitution remained. To that end, he hired intermediaries from the firm of Dodge, Gorham & Co. to take a letter to the French administration in Cape François, and, once the letter was delivered, to intercede on his behalf. In the letter, he retold, almost exactly, the second version of the story, mostly ignoring the details of the first letter from Atwood. Though Atwood may have expanded or fabricated details about the actions of the soldiers in order to shield himself, their addition suited Dorr’s purposes exactly. By placing the blame for the missing cargo on the soldiers, he could appeal the judges without implying that the French government was at fault, only that its agents were. In fact, the major theme of the letter is a deep, emphatic, obsequious love for the French. Dorr wrote “Very few, among the Merchants of America, have been more zealous than we, for the welfare of the French Republick [sic]” and the last sentence reiterates that both Dorr brothers were “devoted to the Republick [sic] of france, in the prosperity of which their very best Wishes have been always.” Dorr’s other strategy was to make himself and William look as pitiful as
possible, writing “The far greatest part of my fortune and that of my brother consisted of
the said Schooner and cargo, Which being both forfeited we remained without any
resource whatever.” This is at least partially a lie. William had investments in other
ships, and both had their family to fall back on. However, the fact that this was the tact
Andrew Dorr chose is illuminating. He approached the Commissioners who would be
judging his case as though they would have an interest in helping a foreign merchant
keep his livelihood, and would side with his account over that of the soldiers, who were
their own countrymen. This assumption could either have been based on self-delusion, or
on the idea that class mattered more than country, that his word as a respectable merchant
was worth more than that of a common soldier.

Throughout his letter to the commissioners on St. Domingue, Andrew Dorr often
had the tone of a man trying to convince himself as much as his audience that everything
is going to be alright. However, whatever sense of calm he had managed to cobble
together was about to be shattered. Dodge, Gorham & Co. wrote to Andrew saying that
since arriving in Cape François, they had read the relevant paperwork, spoken to officials,
and concluded that Captain Atwood was a liar, and that everything that happened to the
_Jane_ was his fault. To be fair, this was not so much a conclusion as a fundamental
assumption of their investigation. After speaking to the French administration, but before
seeing any official documentation, they concluded that Atwood’s official statement was
“so far from being a true statement of facts” that it was not worth even showing to the
French. How did these men who had no ties to the situation and had only recently

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183 Andrew Dorr, Statement, 1797, Dorr Family French Spoliation Claims Papers II,
Massachusetts Historical Society.
received any account of it already know what the objective truth was? The only explanation is that they believed they had heard the truth from the French government. Once they got the official papers surrounding the Jane’s confiscation, they simply looked to confirm their story.

According to Dodge, Gorham & Co. the French produced papers that proved Atwood had actually been granted permission to sell the cargo, but only alongside the boat. The documentation further stated that Atwood had strayed too far away from the Jane, and so the property was forfeit. What the investigators do not say is why they trusted this documentation when they also admitted that the French had already made what they believed to be false charges against Atwood. They acknowledged that there was a French attempt to frame Atwood, writing “declaring the Captain to have committed violence upon the vessell [sic] spoiling her Provisions, appears to be a very weak protest. We suppose it was necessary to add some further crimination,” but still seem to have trusted the French overall.\textsuperscript{184} They viewed the French through the same lens as Andrew Dorr, seeing them as honorable men whose word could be trusted. In this context, what had happened to the Jane was an unfortunate but preventable singular occurrence brought about by an incompetent or criminal captain, not part of a pattern.

Even more striking than the class tensions at work in the various versions of this story is the extent to which every person retelling the story seems to have almost willfully ignored the world outside of the specific circumstances surrounding the Jane. The closest anyone involved came to acknowledging that the nation of France had any

\textsuperscript{184} Dodge, Gorham & Co. to William and Andrew Dorr, 18 March, 1797, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
conflicts other than this one specific seizure was in the opening to Andrew Dorr’s letter to the French administration in St. Domingue. The greatest departure that Dorr made from Atwood’s story was saying that the primary reason Atwood was in Cape François was because of the Dorr brothers’ vow only to trade with “such ports of the French West Indies as remained faithful to the republic of France.” It is not entirely clear to which conflict he was referring. Some French ports had been captured by the British as part of their ongoing conflict, but the use of the word “faithful” suggests an internal change, not an external one, which seems more in line with the ports controlled by rebellious forces within St. Domingue. It is interesting that these conflicts were never mentioned, because their needs drove seizures in the Caribbean in ways that were somewhat independent from the various French decrees that allowed those seizures to happen. If the French soldiers were telling Captain Atwood the truth when they said they had no food and no money, the rebellion and the war with Britain were a big part of the reason why. Captain Atwood could not find good prices for the Jane’s cargo on other Caribbean islands, but once he got to Cape François, the ship was suddenly so valuable that soldiers boarded it to keep it in the harbor. The Dorr family got rich selling fur, a luxury item, but the Jane was essentially a grocery store: no furs, no cash crops, just wine, meat, and fish, which are theoretically valuable anywhere, but in a war torn country, their value would have

185 Andrew Dorr, Statement, 1797.
gone up considerably.\footnote{For more information on the Haitian Revolution in Le Cap, look at Jeremy Popkin’s \textit{You Are All Free: the Haitian Revolution and the Abolition of Slavery} or Laurent Dubois’s \textit{Avengers of the New World: The Story of the Haitian Revolution.}} Though Andrew Dorr did not know it at the time, the \textit{Jane’s} cargo had already been used to feed the French army in St. Domingue.\footnote{Transcription of claim in “Loose Papers, n.d.”, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.}

Of course, the biggest fallacy perpetuated by every person involved in the affair of the \textit{Jane} was that it was an isolated incident. No one mentioned the hundreds of ships that the French had taken before, not even Andrew Dorr, who had, just the previous year, been sent to reacquire a family ship that had been boarded by the same government in the same port. Both he and his investigators still felt that the French were trustworthy sources, and never looked at the larger picture of their accidents to see a pattern, even in letters the French would not see. They decided that Atwood was a liar (after receiving more information, Dorr concluded that Atwood’s “foolish” actions allowed the ship to be taken), discounting the fact that even if Atwood had lied, the French account was still deeply suspicious.\footnote{Andrew Dorr to Ebenezer Dorr, Sr., July, 1797, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.} Setting aside the fact that Atwood’s alleged offense was relatively minor, and the portion missing from the cargo was very small (a generous estimate would put it between 1 and 3\% of the total cargo), it is frankly very shortsighted that no one questioned the timing of the official charge. Atwood told the French that he intended to abandon the ship at least twice, so they knew that there was a good possibility that he could leave. He was on the island for roughly three weeks attempting to reacquire the ship and cargo, but the government did not file charges until three days after he left, and sold off the ship before anyone else from Boston would have time to hear of the news and
make the journey to Cape François. None of these actions inspire trust, and yet throughout the proceedings, the Dorr and his investigators trusted the French. Seizures like this were the beginning of the Quasi War, but when war came from men with titles and official paperwork, it seems that it was harder to recognize.

D. The Rebecca

Everyone involved with the Jane seemed to be very comfortable blaming Captain Atwood for its loss, with one important exception: Eben Dorr Sr.. The patriarch of the Dorr family fixed his eye on a target closer to home. In the aftermath of the Jane debacle, Andrew went back to working on his family’s ships, not his own. Though his tone was melodramatic in his letter to the French, he had lost a sizable amount of money with the Jane. Unlike the Ariadne, it was only partially insured, so Andrew was out $2,694.60, which in today’s money is roughly 50,000 dollars. The damage to his position in his family could have been even more devastating for his future, since the family business was his main means of acquiring wealth.

Mere months post-Jane, the Dorr family launched the Rebecca, with the intended destination of Cape François, proving that they truly did not think (or at least hoped) that the Jane was part of a larger pattern. Though the voyage was similar to that of the Jane, there was one crucial difference: this time, Andrew Dorr was on board the ship. Eben wrote a letter to his son, expressing his wishes for the journey. Even for a man who rarely dwelt on the personal in his written correspondence, the tone of this letter was markedly frigid. Eben usually began his letters to his sons with the formal but familiar greeting “Son.” In this missive to Andrew, his father addressed him as “Sir.” This icy
greeting was followed by a list of instructions as to how to proceed. In the abstract, this was not entirely unusual, but the instructions were a lot more specific than what he had sent to Andrew’s older brothers, or indeed to Andrew before the incident with the Jane. It included advice about trivial matters like what address to use when sending back items that he could not personally accompany. Whereas in previous letters, Eben’s discussion of money was limited to describing his own shortages of cash or of actual assets and trusting his sons to adjust their buying appropriately, in this letter he imposed a specific spending cap on Andrew. This was a voyage with the training wheels on. The fact that Eben’s attitude was related to the Jane can be seen in his last bit of advice before closing the letter: “break no laws of trade, and keep me advised of your doings.”189 The subtext seems clear: don’t let me down again.

Andrew did let him down again. Unsurprisingly, the vessel bound for the port known for stopping ships and seizing cargo was stopped and had its cargo seized. In the seven months between the departure of the Jane and of the Rebecca, France had intensified its efforts to claim cargo from American ships, with a decree that allowed French ships to seize cargo from any ship that did not have a rôle d’équipage. This created somewhat of a boom for privateers. After the Rebecca was seized, Andrew Dorr described the overall shipping situation, writing “every Vesell [sic] let her be bound even to a French port, and in direction of one she is brought in to the nearest port if not condem’d.”190 Owing to this sudden proliferation of targets, the Rebecca was in the

190 Andrew Dorr to Ebenezer Dorr, Sr., 28 June, 1797, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
somewhat odd position of being waylaid by privateers, and then brought into the very
port that was her intended destination.

After this fairly dramatic beginning, the most remarkable thing about the the
Rebecca’s confiscation was how similar it was to the details of Atwood’s account of what
happened to the Jane. The captain and crew were waylaid at sea, and their papers taken.
The French confiscations were explained by a want of provisions. The government
arranged it so that the trial could take place without the defense present, in this case, by
keeping Dorr prisoner on the ship. French soldiers plundered the cargo. This turn of
events did not seem to make Dorr reevaluate Atwood’s story, but it did make him
reconsider his previous evaluation of the French administration in St. Domingue.
Whereas in all of his writing before, he had painted the soldiers as chiefly responsible for
damage to his cargo, now they barely registered next to his bitter enmity for the French
government officials. He wrote, “everything the Government want here they take,” and
later wrote of “the bad conduct of the Government they make no payments and take all
Cargo that they want.”

Andrew Dorr’s time confined on the Rebecca seemed to convince him that he was
not experiencing a one-off event, but was part of a larger conflict: the Quasi War. In his
letters home, he did not do too much to describe the situation of the Rebecca, but
frequently described the system of seizures that the French had developed in Cape
François. He took a more serious view of the seizures, often saying not that the property

191 Andrew Dorr to Ebenezer Dorr, Sr., Undated, 1797, Dorr Family French Spoliation
Claims Papers II, Massachusetts Historical Society; Andrew Dorr to Ebenezer Dorr, Sr.,
July, 1797, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical
Society.
would be “condemned,” which was the correct term for confiscated property that would be kept by the French, but that it was “sacrificed.”\textsuperscript{192} This darker worldview could be related to the emotions he experienced while imprisoned in the Cape François harbor. He wrote to his father “I cant [sic] form any Judgment [on what] will be our fate we are in every sence [sic] of the word prisoners of War.”\textsuperscript{193} This kind of ambiguity about personal safety was probably something that he had never experienced before, since in previous times when he had negotiated with the French he had arrived long after the ship was taken, and so had not seen the initial assault.

Dorr’s horizons may also have been broadened by the experience once he was let off the ship, and was living in Cape François, awaiting the judgment on the \textit{Rebecca}. Over the course of his letters home, he wrote of four other ships, all of which had their cargo seized and condemned. Dorr heard about these stories because he seems to have been socializing with the captains of the ships while he was in Cape François, and developed sympathy for what they were going through. He wrote of one, “a poor fellow – looses [sic] ever farthing of his Adventure and will be fortunate if he saves his Clothing.”\textsuperscript{194} However, the \textit{Rebecca} and her crew had one advantage that none of the other ships did: Dorr himself. When Dorr wrote about the captains, he often mentioned who the owner of the ship was, seemingly so that the recipient of his letter could inform that owner of the loss. This form of address implies that many of the people with large financial stakes in the ships were not actually in Cape François. Depending on the

\textsuperscript{192} Andrew Dorr to Ebenezer Dorr, Sr., 28 June, 1797.
\textsuperscript{193} Andrew Dorr to Ebenezer Dorr, Sr., 21 June, 1797, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
\textsuperscript{194} Andrew Dorr to Ebenezer Dorr, Sr. Undated, 1797.
owner’s arrangement with the captain of the ship, this could cause problems. It was common for captains and seamen to take their wages out of the profits, meaning that without a sale, it would be harder for them to come by the large amounts of money that would be needed for a protracted stay in St. Domingue and to pay a ransom or bribe. Indeed, though the captain of the *Ariadne* was not the one who sued the Dorr brothers, he had also not gotten the money he was promised, because he had to use profits from the sale of the *Ariadne*’s cargo to hire another ship to take himself and the remaining crew back to Boston. Andrew Dorr was in a very different position.

Even though Andrew Dorr’s father had imposed a spending cap, it was a substantial one, since Eben Dorr had anticipated that Andrew might need to charter a second vessel to bring cargo back to the US. However, after the *Rebecca* was seized, Dorr was able to put that money to work in a different way. The exact details of what happened to the *Rebecca* are hard to know, since the letter that Dorr sent home with those details has been lost, and the letter with his preliminary summary of the situation is torn and missing pieces, but one of the only phrases still visible give a fairly clear picture: “and Cargo is clear’d.” Though this sounds promising, in some respects, Andrew Dorr’s troubles were just beginning. The rest of the letter goes on to report the French government’s promise that none of the cargo would be unloaded from the ship, a promise that by this point Dorr was too disillusioned to believe, writing “no doubt they will plunder considerable.”195

In a way, this judgment was completely accurate, but also incorrect. Though the cargo seems to have been legally released, the French were not willing to see it go, and

195 Andrew Dorr to Ebenezer Dorr, Sr., Undated, 1797.
offered to purchase part of it, though offer is perhaps not the right term, since offer implies a choice. Dorr wrote that they had simply “taken” it, and promised to pay the merchant later. The offer that they made Dorr on the rest of the cargo was no better, but it was not one that he was prepared to refuse. After seizing a portion, the French government would only release the remainder of the Rebecca’s cargo if Dorr paid them a “considerable” bribe.\(^{196}\) Though this was undoubtedly humiliating, Dorr’s family money insulated him against a truly disastrous consequence: he would at least be able to leave with part of the cargo, and even if there was not much profit, he would maintain the relationships with other investors who had put their cargo in the Dorrs’ ship.

The humiliation of this conclusion should not be underestimated. Dorr was making arrangements for the cargo to be returned on August 8\(^{th}\), and yet two weeks later he still had not left Cape François. Perhaps the reason why lies in his August 8\(^{th}\) letter home. He wrote “I have not the most distant idea of recovering what they have taken from us though…promises are made us,” referring probably to the payment for the seized cargo, but possibly also to the Rebecca itself, which the French were still holding onto.\(^{197}\) But the letter makes clear that his thoughts were not truly with the Rebecca, but with the Jane. Throughout his time in Cape François, Dorr had been making his own inquiries about the whereabouts of the ship that was supposed to have made his fortune, and by the 8\(^{th}\), these inquiries had borne fruit. He had learned since his last letter that, far from being sold and disposed of quickly, like his investigators had told him, he had only just missed the Jane’s departure from Cape François. Indeed, it had sailed away from the

\(^{196}\) Andrew Dorr to Ebenezer Dorr, Sr., 8 August, 1797, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.

\(^{197}\) Andrew Dorr to Ebenezer Dorr, Sr., 8 August, 1797.
island not while he was in Boston, separated from it by over 1,500 miles, but while he was imprisoned on the *Rebecca*, just two miles away. Furthermore, he learned that the ship had been sold to an American. On the 8th, he made a discovery that would breathe new life into his investigation: the *Jane* had been stopped, this time by the US government in North Carolina. The main subject of the August 8th letter was his repeated requests that his father try to affect the return of the *Jane*. Though it might seem that this fixation would make him drop everything and sail for the Carolinas, it could just as easily have pushed him to stay in Cape François. This fresh reminder of what the French had taken from him could have made the new losses seem like too much to bear. He had to stay to make the French give him what they had promised.

Whatever the reason, Andrew Dorr’s continued presence in Cape François was not received well by his family. During the entire affair of the *Rebecca*, Dorr had been dutifully and frequently sending letters to his father. However, there is no evidence that Eben ever responded. No letters from father to son exist in the Dorr papers during this period, and Dorr never mentions receiving one, even though it was standard practice for everyone in the family (and many people at this time) to begin all of their letters with a recitation of the previous letters from they have received from their current letter’s recipient, so that it would be clear how up to date they were. Dorr never began any of his letters by acknowledging a written reply from his father. This silence could mean nothing, or it could have been one of the things that made Dorr stay in Cape François.

Whatever the reason, the emotional comfort that a man in Dorr’s position no doubt needed came from its usual source: not his father, but his siblings. In one of their

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198 Andrew Dorr to Ebenezer Dorr, Sr., 8 August, 1797.
joint letters, Joseph and John attempted to talk sense into their younger brother. This was their second attempt, having written another letter weeks earlier with no response, and the lack of a reply from their brother seems to have built up the urgency of their tone, as they asked “in our own names & of all your friends to request you would leave the Island by the first opportunity & return home.” The stated purpose for their concern was “apprehensions for [his] welfare,” though they were not specific about what this meant. Andrew had been physically ill on the journey down from Boston, but had written soon after arriving that he felt better and had not complained of ill health since. Yet, his brothers repeatedly mentioned Andrew’s wellbeing, assuring him “the acquisition of property apparently lost, is no consideration in competition with your health.” This could be a general concern over their brother’s health in an unfamiliar climate, but the repetition of the worry implies that they had something specific in mind.

The emotional tone of Andrew’s previous letters seems to have been what was worrying his family, rather than a physical ailment, since his brothers took the improvement in that tone to be a sign that he was improving overall, writing “your letter of 23rd July written in a state and spirit of correctness [sic] which induced us to think you are better.” The purpose of their latest joint letter appears to have been to convince Andrew that no one at home was disappointed in him, and that if it was fear of failure that was keeping him in St. Domingue, he should forget it. They repeatedly assured him that his father and mother were both anxious for his return, and that even the other investors in the *Rebecca* did not blame him for what happened.199 Though Andrew

199 Joseph and John Dorr to Andrew Dorr, 22 August, 1797, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
eventually left, it was not because of the entreaties of his brothers. Francis Dorr, Andrew’s son, later recalled that from what his father had told him, he stayed in Cape François as long as he could, trying to get the French to honor their promises, and only left when he finally ran out of money.

The most remarkable part of Joseph and John Dorr’s August 22nd letter comes after most of their entreaties for Andrew to return had subsided. They then let their own opinions be known, namely that “The unparalleled conduct of the armed powers toward us is almost unsupportable.” They later refer to larger changes in France, and possibly St. Domingue itself that were “perhaps favorable to our future harmony.” Andrew’s idea that there was a coordinated French effort to thwart American business had spread to the whole family. When Captain Atwood had suggested it, none of the Dorrs even deemed it worth repeating, but now that Andrew had firsthand experience, at least part of the family was on board. Experience was the key: the people who could see what the French were doing with the greatest clarity were consistently those who were directly affected by it. The French campaign appeared in the writings of those who had actually been at sea, whether they be mariners, or merchants who sailed with their ships, like William Handy and Andrew Dorr. The Quasi War was coming out of the shadows.

The Dorr family was not alone in their changing attitudes about the Quasi War. At the beginning of 1797, more and more writing referred to a coordinated French campaign against the US. When the US government made a survey of newspaper coverage of French seizures from 1796-97, 20% of the articles made a point that it was

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200 Joseph and John Dorr to Andrew Dorr, 22 August, 1797, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
French policy to seize US vessels and cargo.\textsuperscript{201} One of the men who decided to report on the developing conflict was none other than Captain Thomas Atwood. Atwood and another captain, James McCall, wrote into several newspapers to protest their treatment in St. Domingue. Despite the fact that Atwood listed his title as “late master of the schooner Jane,” he did not write much about the specific circumstances of that loss. The letter focused instead on the ways in which the French had targeted “every American vessel.” It may be that some of the bitterness of his own experience shines through in a later reflection that “When remonstrances are made, nothing but persecution results.”\textsuperscript{202}

This letter is the closest that Atwood could get to saying “I told you so” to the family who refused to believe his story of the Frenchmen who wanted to take his cargo because he was a US citizen, and no one in the Dorr family may ever have seen it. Regardless of whether they ever changed their opinion of Atwood, people like the Dorrs caring about the Quasi War was a big deal. The most documented losses during the Quasi War were losses of property, not losses of life, because that property represented the potential growth of the US economy. The massive loss of property during the lead up to the Quasi War was largely what made the captures a national issue: a tally of just one portion of the property lost during these years put the value at roughly 177 million in 21st century US dollars. That amount of money was probably a bigger motivator than individual loss, like damage to Atwood’s reputation, or the injuries and trauma that other mariners experienced. But the story of the Dorrs shows that the two are not mutually

\textsuperscript{201} “A few remarkable cases of French captures, extracted from the newspapers,” in \textit{Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States, Residing in the City of Philadelphia, Referred to him, by order of the House, on the Seventh of May Last}, (House of Representatives, 1797).

\textsuperscript{202} Untitled Article, \textit{Connecticut Journal}, January 18, 1797.
exclusive. It is clear from his behavior that losing the *Jane* meant more to Andrew Dorr than a simple loss of an investment, and that his time in St. Domingue had affected his behavior in a way that was distressing to the people who loved him. The question throughout this period was not just how much damage would the US endure before they would engage with France, but also what kind of damage? What would it take to make the emotional pain of someone like William Brooks matter in the same way as the financial pain of a family like the Dorrs?
CHAPTER IV

“THE SCARS WILL BE WITH HIM TO THE GRAVE”

The *Cincinnatus* had not had an easy time when it crossed the Atlantic from Baltimore to London in 1797. The first big storm it encountered caused so much damage that a nearly monthlong unscheduled stop in Galway was not enough time to recover. The crew were still scrambling to make repairs on the last leg of the journey when they were hit with a second, much worse storm. Despite pumping water out of the vessel every half hour, the *Cincinnatus* was still “constantly under water.” In the aftermath, with an exhausted crew and missing key pieces of rigging, the *Cincinnatus* limped along for another week until it was hailed by a British cruiser. Once the hailing vessel drew close enough that those aboard the *Cincinnatus* could see what was really going on, it was too late. They were being hailed by a French privateer who intended to capture them.

It began as an average privateer capture. One of the officers and several of privateer’s crew brought the captain of the *Cincinnatus*, William Martin, its mate, Eugene Sweeney, and three mariners on board their ship. The remainder of the privateers searched the *Cincinnatus*, stealing Martin’s watch, sextant, and spyglass as well as much of the vessel’s provisions. After inspecting the *Cincinnatus*’ papers, the privateer officers conceded that it was in fact a neutral ship belonging to citizens of the United States, but claimed that the cargo was British, and therefore subject to seizure. Martin did not agree. At this point, many privateers would have either seized the ship and let the courts sort it out or decided that it was too much trouble and let the *Cincinnatus* go. But the *Cincinnatus* had not been captured by that type of privateer.
Perhaps it was a warning sign that none of the privateers would give their names, or even the name of their ship. Or maybe Martin did not notice anything suspicious until one of the officers offered to pay off Martin’s own investment in the voyage and make him a “present” of a thousand pounds if he would swear that the cargo was British. According to the protest by the crew of the Cincinnatus, Martin did not even acknowledge the offer with a reply, choosing only to restate that he was transporting the property of Aquilla Brown of Baltimore, Maryland. This implied refusal was obviously not what the privateers had hoped for, and they pulled Martin into the ship’s cabin to get him to reconsider in private. Some hours later, the captain of the privateer emerged from the cabin with one of his officers and presented Sweeney, Martin’s mate, with a note from Martin, in which he confirmed that the cargo was, in fact, British. The privateer then demanded that Sweeney corroborate the note with a confession of his own. This could seem like the negotiation between captor and captured had reached its end, but the note itself was actually just another tactic. Even as Sweeney refused to comply with the privateers, he noticed that the note he was being asked to support was not in his captain’s handwriting.

When Sweeney refused, the privateers responded by changing the stakes. They made it clear that Sweeney was not choosing whether he would acknowledge that the

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203 It was common during this time for captains and some of the crew to have a stake in their voyages. They would buy goods with their own money and sell them along with the merchant or investor’s goods.

204 As the Cincinnatus’s crew waited for a decision to be made, the privateers made at least one further offer of compensation in return for an affirmation that they were carrying British property. Their target was one of the mariners, so the money was not as good as what they had offered Martin, but the crew remembered that they were rebuffed again.
cargo was British; he was choosing whether he wanted to make the acknowledgement at that moment, or after he suffered some sort of “violence” at the hands of the privateers. The *Cincinnatus* had been captured by a crew of privateers who had a pronounced violent streak, one which was at odds with many of the norms of their profession. The *Cincinnatus*’s crew was largely spared from whatever would have followed the bribes and threats, as, after four hours of trying to create grounds for seizing the *Cincinnatus*, the privateers spied a much easier mark. A British ship, the *Diana*, sailed within view, and the privateers who had captured the *Cincinnatus* pursued and captured it as well. There was no need for negotiations or deliberations, the *Diana* was an enemy ship, free of any of the moral and legal gray areas of attacking a neutral.

As they began their pursuit of the *Diana*, the privateers brought William Martin out from the cabin, and it became clear how far they had been willing to push the boundaries of what could be done to secure a capture. Martin’s injuries were quite obvious, and the crew could see that he had been tortured. The crew’s protest does not detail exactly what happened to Martin in the cabin, except to say that whatever he endured was constant over the course of those four hours, and to name the method of torture: thumbscrews. The privateers had used the thumbscrew, which was essentially a crude vice made to break fingers and toes, to crush both of Martin’s thumbs. As soon as the privateers set their sights on the *Diana*, Martin’s position changed considerably.

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205 “Extract of a letter from Rufus King, Esquire, Minister of the United States, in London, dated 19th April, 1797, enclosing the Protest of William Martin, Master of the Cincinnatus, of Baltimore,” in *Message from the President of the United States, Transmitting a Report and sundry Documents, from the Secretary of State of Depredations Committed on the Commerce of the United States Since the First of October, 1796; in Pursuance of a Resolution of the House of the Tenth Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
With an easier target within their grasp, Martin was suddenly of much less value to the privateers. The question remained, however, were the pain, injury, and fear of this particular ship stop a crime that deserved to be prosecuted, or simply a traumatic personal experience? That the privateers were so cavalier suggests that they did not anticipate, or at least did not fear, many consequences for their actions. As the crew of the *Cincinnatus* watched their captain return to them after his ordeal, they may not have been sure that they would make it back to shore. They could be sure, however, that if they did manage to make it back, the condition of their cargo would be much more important than the condition of their crew.

Perhaps some of the lack of urgency in writing about the Quasi War is because the emphasis on diplomatic history can imply that this was not a violent conflict. Many of the prominent landmarks in most narratives that described it were diplomatic and the formal military engagements claimed fewer lives that almost any war one might wish to compare it to. For any member of the general public interested in the subject, the most easily accessible measure of the casualties is the Wikipedia count: 28.206 In the most famous battle of the war, that of the *Constellation vs. L’Insurgente*, the US only lost two men (the French lost more, between 29 and 70 depending on the report). The numbers are low because they often count US military personnel as though they were the only front line of the Quasi War, and ignore the fact that the US military arrived years into an already developing conflict. In fact, much of the violence of the Quasi War happened while the US government was still deciding whether or not it wanted to intervene. The

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number of fatalities should not define how important an event is, but it does illustrate some of the complexities of this particular conflict – that it went on longer than it might seem, affected more people than are immediately apparent, but in ways that are harder to track than the casualty counts of a battle. The violence in this undeclared war was informed by all of the factors that kept the Quasi War from becoming a formal conflict, but that same violence was ultimately also part of what pushed this nebulous engagement toward the stage where it had casualties that would actually be counted.

A. The Threat of Violence

Under any circumstance, being boarded by a privateer held the potential for violence, but often the appearance of being willing to hurt people was more useful to a privateer than actually hurting people. The goal of an interaction between a privateer crew and their capture was to obtain cargo (preferably, undamaged cargo, meaning that a massive firefight was not usually in a privateer’s best interest). That could happen if all of the crew was dead, but would happen much more easily if the crew simply agreed to do what the privateer asked. The latter situation could be achieved through a strategic use of fear. There was a fairly wide range in how many weapons a privateer would be armed with. Some lightly armed privateers would mount fake muskets with a few real ones sprinkled in, in order to give the impression that they were armed to the teeth and prepared to fight, when their real aim was just to scare a potential capture into surrendering without a fight.\footnote{For a good summary of this policy, see Christopher Spearin, “Promising Privateers?: Understanding the Constraints of Contemporary Private Security at Sea,” \textit{Naval College War Review} 67, no. 2 (Spring 2014), p. 103. For a more far-ranging examination of the}
while captain John Gutterson was in Basseterre awaiting trial for his vessel, the Lady Walterdorf, he noticed a captured US ship, the Hannah, sitting in port. He concluded that from the look of the vessel, the Hannah was going to be repurposed as a privateer itself, but the only aspect of its appearance that he noted was the fact that it “was pierced for fourteen or sixteen guns.” In a way, it did not matter whether Gutterson had the right impression about how armed the average privateer was. His reaction at seeing the armed ship was the goal: that privateers would be seen as capable of catastrophic damage, whether or not that capability was actually real.

The initial stage of any privateer interaction, after the capture was hailed but before it stopped, could be the most violent. To a certain degree, privateers were within their rights to fire on vessels that they were pursuing, since they were allowed a lot of leeway in terms of what they could do to compel their targets to stop for them. In the case of the Commerce, Captain Tobias Ham remembered the captain of the Trumpeuse, the privateer pursuing the Commerce, firing a warning shot as the two ships drew near each other. In his protest he said that the Commerce “instantly hove too,” indicating that he recognized the shot as a sign to stop. However, some US captains reported that French privateers actually got more violent after the Americans had stopped. Mitchell Cutter, captain of the brigantine Almy was cornered by two French schooners that fired thirty rounds at their capture, even though Cutter claimed the Almy “had been for some

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208 “Ship Commerce,” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
209 “Brig Lady Walterdorf,” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
time previous lying to for them."\textsuperscript{210} Cutter was not alone. Captain Archibald Cunningham of the ship \textit{Nancy} remembered that the schooner that captured him was preparing to fire on the \textit{Nancy} even after it stopped.\textsuperscript{211} In these cases, firing on the vessels may have been an attempt to maintain control in a situation where the balance of power was not necessarily in the privateer’s favor, since, based on how the protests classify the ships, the \textit{Nancy} and the \textit{Almy} were most likely bigger than the ships pursuing them. Cutter did not report any significant damage from the shots fired at the \textit{Almy}, but inflicting damage or injury may not have been the reason that those shots were fired.

The \textit{Almy} was not damaged in the privateer’s initial assault, but captains and crews on other vessels reported the same burst of unprompted and never repeated violence at the beginning of the capture. Not all were as fortunate as the \textit{Almy}. After privateers captured the \textit{Nancy} (though not the same \textit{Nancy} mentioned above) they detained the captain and some of the crew on their own ship. As for the crew still left on the \textit{Nancy}, the privateers stripped off most or all of their clothes and “drove” them below decks. William Fearson, a mariner, remembered being beaten with a cutlass to compel his obedience.\textsuperscript{212} In the case of the \textit{Commerce}, Captain Tobias Ham answered the privateer captain Barriere’s warning shot by saying that his ship originated in the United States, but instead of backing off, Barriere ordered his crew to fire all of the guns

\textsuperscript{210} “Brig Almy,” in \textit{Message from the President of the United States…Instant} (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
\textsuperscript{211} “Ship Nancy,” in \textit{Message from the President of the United States…Instant} (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
\textsuperscript{212} “Ship Nancy,” in \textit{Message from the President of the United States…Instant} (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
mounted on the side of the vessel facing the *Commerce* as well as some of the “small arms” held by the crew. The object again was to push the capture to obey: Ham remembered that the *Commerce* had stopped as soon as Barriere hailed it, but after the barrage of fire, Barriere yelled that he wanted the *Commerce* to also lower its sails, a gesture of surrender that also would have made it harder for the *Commerce* to retreat. If the sails were not lowered, Barriere said that he was prepared to sink the *Commerce*. In his protest, Ham did not mention that he ever lowered the sails. Rather, he recalled that his response to Barriere’s threat was to shout back that the *Commerce* was near to becoming a wreck, that the attack had wounded four of his men, and that he was a citizen of the United States on board an American ship.\textsuperscript{213} Barriere boarded the *Commerce* and continued with the capture, because it was never about whether or not the sails were lowered, it was about Ham acknowledging that he was no longer in control. The captain who took the *Nancy* exerted this control by stripping and beating the crew, while Barriere asserted himself through a hail of gunfire. Cutter remembered that there had been at least thirty rounds fired at the *Almy*, but the experience of the attack on the *Commerce* was intense enough that Ham could not grasp this type of detail as it was happening. Ham and his crew only realized how many shots were fired at them later, when they walked their deck, and counted the projectiles were still lodged in the body of the *Commerce*.\textsuperscript{214}

\textsuperscript{213} Ham also lists the exact injuries sustained by some of his crew. Two were wounded by projectiles from the privateer ship, but one appears to have been injured as a consequence of the damage to the *Commerce*, since he is said to have sustained damage to “his fore-head with a splinter of wood.”

\textsuperscript{214} “Ship Commerce,” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
The scale of the attack seemed to rattle Ham, but the protest also implies a certain amount of shock that it was happening at all. Ham made a point of saying that he had asserted his US citizenship three times to the privateers “very distinctly” so that they would understand him. That he would keep saying it indicated that he thought it might change his situation, and that it was one of the few details documented in his protest could mean that he still did not quite understand why it had not.215 Even after so many seizures, it is not entirely surprising that there were still some Americans who believed that their alliance with the French would protect them, after all, there was no formal declaration of war.216 Ham restating his nationality could actually have made the situation worse, as he was repeatedly marking himself as a viable target. That the conflict between the US and France was undeclared and underreported created a dangerous situation for anyone on a US ship. From the French perspective, their legal status had informally changed, but not all of the US mariners knew it and the ones who did were not given much direction as to what to do with that information. In any given capture, each side could be playing by very different rules.217

Once privateers had control, the crew could still be in danger. If the privateer crew could not find proof that a neutral ship had violated the law, some crews would

215 “Ship Commerce,” in Message from the President of the United States…Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
216 This problem was not limited to civilian mariners. One, possibly apocryphal, story has the French commander of one of the ships in one of the Quasi War’s most famous battles initially being confused as to what was going on because the two countries were not at war.
217 The violence at the start of the capture was not necessarily illegal, even if it could be excessive. Privateers could fire on a ship if it refused to stop, which is why the protests emphasized that captains had already given the command to stop when they were fired upon.
attempt to fabricate that proof, as the crew of the *Cincinnatus* had discovered. The simplest way to achieve this was to get a crew member to confess to wrongdoing, such as violating one of the French decrees created during the Quasi War. The crew of the *Kitty* remembered that “We could each and every one of us have received a very handsome reward…had we been base enough to declare a falsehood that that they urged…some of the crew to do, namely that some of the cargo was shipped at the Cape of Good Hope.”

By admitting to this point of origin, the crew members would have been acknowledging that they had visited a port held by the British, and made their cargo viable seizure under Quasi War rules.

Sometimes the offer of a reward was either not enough, or not on the table at all. The *Political Gazette* reported the scarring account of one Captain Worth and his crew of the *Two Sisters*. The privateers stopped the *Two Sisters* off the coast of the present-day Dominican Republic and commanded the captain and a few members of the crew to board their ship. Once on board, the captain of the privateer produced a “paper written in French” and “ordered Captain Worth to sign it.” Worth refused. The privateer captain then “drew his cutlass and swore he would cleave his [Worth’s] skull, if he did not immediately put his name to the paper.” Despite what would obviously have been a stressful situation, the article states that Worth refused again, this time citing “the absurdity of his signing a writing in a language he did not understand.” At this point, the privateer captain turned his attention to the crew, and “commanded them to write their names,” a situation complicated by the fact that both of the mariners “could not write.”

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Eventually, he “forced them with threats and a drawn sword over their heads, to make their marks at the bottom of the paper.”\footnote{Untitled, \textit{Political Gazette}, March 31, 1797} A later account of the same incident implies that the paper they signed was similar to that which the crew of the \textit{Kitty} had declined, a declaration that they were engaged in trade with a British-held port.\footnote{“A few remarkable cases of French captures, extracted from the newspapers,” in \textit{Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States, Residing in the City of Philadelphia, Referred to him, by order of the House, on the Seventh of May Last}, (House of Representatives, 1797).} Though no one was actually hurt in this altercation, it seems that the threat of violence was perceived as real enough to compel obedience in this and other cases.\footnote{For more on histories of the experience of wartime and violence, see note 9.}

Captain Nehemiah Ingraham of the \textit{Diana} was in a bit of a different position from the previously mentioned mariners, since the crime he was being coerced to confess to was governed by the Treaty of Amity and Commerce with France, not a Quasi War law.\footnote{This was a different \textit{Diana} than the vessel referred to earlier in the chapter.} According to him, one of the required documents, the sea letter, was not in the initial place where he told the privateers to look, but instead of allowing him to search for it, his captors commanded him to sign a paper denying its existence. Much like the other captains, in his protest he claimed to have refused to sign. At that point, the privateers told him that without a signature, they would put him in irons and confine him to the hold of their vessel until he changed his mind. Ingraham made a calculation. If he signed the paper he would not only “avoid this ill treatment,” he could potentially avoid any legal
consequences, since his understanding was that “an act exhorted by violence and from one who was not free, cannot prejudice him who signs it.” If he did not sign the paper, he truly believed that he was in the company of people who were unafraid to hurt him. This was the object of threats of violence from privateers, that even when they were not violent, their threats were believable and frightening enough to carry weight.

Even when the prize courts were stacked against captured ships, someone like Ingraham trusted them to obey the law, or at least this one aspect of it. He clearly had no expectation that privateers would obey the law, since the biggest motivator in his decision appears not to have been the calculation of what he could expect from the courts, but his fear in the moment when he was deciding to sign. In his protest he claimed that his actions were justified, even though he admitted that he had not lived up to his duty as a captain to defend his cargo, since “he found himself threatened and surrounded by armed men.”

Even though he exited the engagement unharmed, the fact that he capitulated, just as others did, shows that many people believed the threat of violent reprisals from privateers was very real, and that there was little that could be done about it but agree to their terms.

**B. Starvation**

The most common form of torment that US mariners experienced during the Quasi War was the aftermath of one of the most common ways that privateers violated international law: the looting of supplies on board. This might sound minor, and might not even make it into official accounts of losses sustained by a given vessel, but the

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223 “Extract from the register of protest of masters of foreign vessels,” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
consequences could be severe. Once the privateers had captured a ship and controlled the
Cargo, they were not in a hurry to return any of the provisions that they now possessed.
Privateers controlled the food that the crews they captured ate while they were prisoners,
as well as how much these crews got back once they were released. Some complaints
stress that while imprisoned they were given small portions of food. In his protest, John
Guttersen, captain of the Lady Walterdorf, included general observations on how
privateers’ prisoners were treated in Guadeloupe. He said that once they had
Disembarked, much of the crew was taken to jail, where their food allowance was a half-
pound of bread and two ounces of fish per day. 224 For reference, that is about a third of a
loaf of bread and the actual fish equivalent of two fish sticks, which might not be enough
for the crew to starve, but was certainly not a healthy ration. The captain of the Glasgow
was detained with no rations at all for 36 hours. 225 If the privateers released the captured
crews at the port where the ships would be tried in a prize court, the food shortages could
be even more severe. It was very common for privateers to retain the provisions and
goods that they had taken from their captures, even after they released the crew. This
meant that crews often had no food and no money to buy it. After the Zephir was
captured, the privateers reportedly took all of the vessel’s provisions and refused to return
any of them “leaving Capt. [Beard] and crew with nothing to subsist on.” 226 William
Fearn of the Nancy was fed with bread and water when he was confined on the

224 “Brig Lady Walterdorf,” in Message from the President of the United States…Instant
(Philadelphia: House of Representatives, Printed by W. Ross, 1797).
225 “A few remarkable cases of French captures, extracted from the newspapers,” in Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States,
Residing in the City of Philadelphia, Referred to him, by order of the House, on the
Seventh of May Last, (House of Representatives, 1797).
226 Ibid.
privateers’ vessel, but once he was in port he referred to his position as being “left destitute of every thing to obtain the common necessaries of life.” The crew of the *Kitty* remembered that since the privateers would not let them reclaim their own belongings, “not being suffered to take even our clothes from on board” the were “now destitute of both them [the clothes] and money.” The danger of a privateer capture did not end when the privateers released their prisoners if they were releasing them to die.

The specter of death by starvation hung over mariners after they had been removed from their ships, and it drove them to abandon those ships sometimes even before the ships were condemned. Some captains petitioned local governments for supplies and got them, though there was no guarantee that the supplies would be enough. The *Pattern* got a comparatively generous ration from a privateer captain before he even landed of six barrels of biscuit and three barrels of salted beef, but the crew of the *George* only got one barrel of bread, and the crew of the *American* received only “small supplies” after many unsuccessful attempts. Despite these stories of limited success, captains cited lack of access to food as one of the main reasons that they left the port. Thomas Atwood, the captain of Andrew Dorr’s *Jane* who was discussed in Chapter 3, left because he did not have enough provisions. Thomas Town, captain of the *American*, left Cape François because he was “nearly out of provisions.” A published statement that retold

227 “Ship Nancy,” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
228 “Ship Kitty. (McPherson.),” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
229 “Ship Pattern. (Boal.),” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797); Untitled, *Philadelphia Gazette*, April 5, 1797.
230 “Brig American. (Town.),” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
the plight of the *George* presented leaving the Caribbean for the US as the “only alternative of capt [sic] Grant and his crew” since they had “nothing to subsist upon, on board or on shore.”

Some still chose to stay and wait out the trial in the prize court in the hopes of regaining some or all control of the vessel and cargo and others could not find a means to get back to the US.

The decision to stay or an inability to leave could have serious consequences. Staying in an unfamiliar environment could leave mariners open to illness. Daniel Gorton cited his “bad state of health” as well as his lack of money for basic necessities as a reason he left.

Later in the development of the conflict, late 1796 and 1797, there was some newspaper coverage of the situations that mariners encountered in foreign ports, and the picture it painted was grim. One piece about a port in St. Domingue reported that “there had been eighteen sail of Americans taken into that port, fourteen of which had been abandoned by their crews after lying there from fifty to ninety days, in which time three captains and nearly half the crews had died.”

A *Philadelphia Gazette* report of a different St. Domingue port recorded seven captured US vessels in the harbor that had been ravaged by disease, estimating that “more than three-fourths of the men (Captains and sailors) fell a sacrifice to the fever.” The same *Gazette* article estimated that in a combined measure of St. Domingue ports privateers had 51 captured US vessels sitting in the water and that “at a moderate computation half of their crews had died.” Its depiction of the survivors was not exactly hopeful, as it described people who were

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“more like walking ghosts than men; most of them destitute of money, and unable to give a decent burial to those who die.”

Starvation and deliberate deprivation of resources was a form of violence, indeed, one of the most prevalent forms of violence in the Quasi War. Illness and starvation were not blows dealt by a privateer’s sword, but it would be rash to discount them as a form of violence; even if the privateers were not condemning seamen to die, they were removing most of the available ways that captured seamen could continue to live.

These deaths were not a bug in the system of Quasi War privateering, they were the system: a big part of how the privateers and their investors assured victory. Though the legal system around French seizures was often arranged to be disadvantageous to the original owners of the captured neutral ships, it was theoretically possible to get some property back. One of the big keys was persistence. Andrew Dorr got further than most because he had enough money to stay in St. Domingue. Thomas Town Jr. of the American was able to get 35,000 livres in coffee and other products but only after he made several journeys between Port-de-Paix and Cape François, negotiated competing decisions from different St. Domingue administration officials, and almost ran out of supplies at least twice. Court victories were possible – why else would Thomas Lunt arriving at trial with an attorney have spooked the administration officials present enough that they told him the court was too sacred for him to enter? Captains, merchants, or

234 “A few remarkable cases of French captures, extracted from the newspapers,” in Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States, Residing in the City of Philadelphia, Referred to him, by order of the House, on the Seventh of May Last, (House of Representatives, 1797).

235 “Brig American. (Town.),” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
investors who were able to show up to meetings and trials could prevail, so keeping them out of those rooms was key. Seen through this lens, the long periods of imprisonment in the harbor, like the one that Andrew Dorr experienced, were not so much vindictive as they were strategic. Captain Henry Stover of the Valeria noted this connection in his protest, saying that the privateer captain had “kept him on board the…privateer a close prisoner [until] he [the privateer] had obtained permission to discharge…the Valeria.” Stover was clearly shocked by the lack of due process, since he summarized that “no examination of the deponent was had by any authority whatever, nor could he learn, nor does he believe there was any trial or condemnation of either vessel or cargo.” It may be true that the Valeria had no trial, but it is also possible that the countermeasure of keeping Stover on board the ship prevented him from ever knowing it was happening.

Captain Gutterson also noted a connection between the treatment of US prisoners and the legal cases against them, if in a less direct way. After remarking on the insufficient rations he and his crew were given, he remembered that the British prisoners he knew of did not have the same restrictions. They “are permitted to walk about the streets, and all…generally have their private property restored to them.” Though it is doubtful that Gutterson’s observations of a few prisoners in one port constitute a general pattern that would hold true over all prisoners, that he noticed a pattern even on a small scale could point to a link between property seizure and the legal tactics of the Quasi War. It would not matter if British prisoners still had their material wealth and provisions

236 “Brig Valeria. (Stover.),” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
237 “Brig Lady Walterdorf,” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
or were able to move around the city, since they sailed on enemy ships and it was much easier to prove that they were a legal prize. For the US citizens, even when they weren’t imprisoned, the poor health that would almost inevitably follow lack of money and supplies would drive them away from the ports where their ships sat, ready for a trial that no one could win long-distance. The *Daily Advertiser* article that told of the woes of the crews in the ports of St. Domingue summed up the policies of the French government as constantly delaying trials so “that there was not the least prospect of ever obtaining a decision until…the crews starved for want of provisions.”238 Stover reflected bitterly that he “was robbed of all his property without the least pretence [sic] of colour of law” but the truth was that as often as the law was on the side of the people who took its property, the same system also used extra-legal means to make sure that the legal decisions he regarded as “robbery” would remain as unchallenged as possible.239

C. Truth…

At the most basic level, every single one of the petitions, protests and statements by a mariner victimized by the Quasi War was just a story. The only reason these stories would have significance is if they were generally believed to be true. As previously discussed, a lot of the evidence (in the form of paperwork and other documentation) was often not returned to or seen by the captured captains. All that anyone who had not directly witnessed the events in question had to go on was the captain’s word, and for some that was not enough. Andrew Dorr did not believe Captain Atwood’s account of a

239 “Brig Valeria. (Stover.),” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
blatant seizure until he himself had almost the same experience.\textsuperscript{240} In Fulwar Skipwith’s list of claims against the French government he made it clear that he was scrutinizing captain’s accounts closely. He dismissed the statement of Samuel Montgomery Brown, officer on the \textit{Favourite}, writing “not a single official paper to support the fact” as well as that of Loudon Bailey, captain of the \textit{Lucy}, saying that other than “the captain’s account” there was “No evidence.”\textsuperscript{241}

Even when there was some documentation, Skipwith still had cases where he felt they did not provide enough proof to corroborate the story. In the cases of Walter Stewart and of the \textit{Franklin}, Skipwith had seen official paperwork from the governments that seized the cargo. He identified the papers in both cases as being “ordonnances” and noted that in Stewart’s case it was notarized but did not go into greater detail as to what was in the ordonnance. In the case of the \textit{Franklin}, the paperwork accounted for its destruction and listed all of the property still at Cape François when the ship was destroyed. Skipwith still felt that there were “no pieces of evidence…to support any part of the claim.” In the case of the \textit{Brothers}, Captain John Baptist Smith filed an official protest, and Skipwith implied that even a protest formally filed was not enough as a rule, writing “No claim can be supported without the assistance of some other evidence.”\textsuperscript{242}

Many of the accounts in this and other chapters come from captains’ protests, but these

\textsuperscript{240} Andrew Dorr to Ebenezer Dorr, Sr., July, 1797, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society; Andrew Dorr to Ebenezer Dorr, Sr., Undated, 1797, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.

\textsuperscript{241} “A Statement of the Claims of Citizens of the United States upon the French Republic presented by Mr. Skipwith, Consul-General of the United States, at Paris; and also of his proceedings and remarks upon them, viz.,” in \textit{Report of the Secretary of State...Last}, (House of Representatives, 1797).

\textsuperscript{242} Ibid.
words may not have been enough to convince the captain’s contemporaries that what they were describing actually happened.

Skipwith might not have been wrong to deny these claims. Every one of them could have been false. On the other hand, they could simply have not been able to produce adequate documentation since it was kept from them precisely because it would make them look less believable. More probably, it is a mixture of the two: some captains may not have been believed because they were victimized by the French legal system, and others may have been lying or exaggerating. It seems that some captains knew that there was a very real possibility that they would not be believed, and so worked confirmable information into their protests. Almost every protest included details of the weather that the crew encountered over the course of their voyage, even when it was not at all relevant to the capture, as well as details of latitude and longitude for where they were captured, but also for other events during the voyage. If anyone was investigating, these details could allow them to somewhat confirm the route that the vessel had traveled and find witnesses who might have seen something.

Some protests even suggested witnesses. When Captain Town documented the capture of the American he remembered that he was “in the presence of Andrew Donaldson, his mate, Benjamin Howard, his steward, and Captain Thomas Cunningham of Baltimore” when he locked himself in his cabin as well as when the privateers forced the door open and stole money that he had hidden under his bed. He also took care to mention that the money was “carried to the shore in the presence of Captain
Mentioning Cunningham twice shows that Town knew he needed witnesses, and probably knew that having a witness who was not on his own crew could be a powerful argument in his favor. The *Philadelphia Gazette* article about the *George* also uses a captain of another US vessel to corroborate the story of the *George*. In this case, the corroboration is even phrased like testimony, reading “Camuel Briard certifies, That…he found capt. John Grant on boat the brig Resolution, having been treated in the manner as described…which treatment is nearly similar to what he experienced himself from the same captain of the Hirondale.” Again, this was certainly included because it was important evidence: not only was Grant there to see some of the aftermath firsthand, he had also had a similar run in with the same privateer. Even so, in both of these cases, the witnesses provided were other mariners. While a more indifferent witness would have been good from an evidentiary standpoint, it is also worth noting that captain’s protests were not necessarily considered reliable, and so the testimony of another captain might just be adding another questionable statement to an account that was already being interrogated.

The question of the believability of these accounts were was vitally important, not just in terms of sustaining legal victories, but also when it came to the violence that mariners were claiming privateers carried out against them. As has been previously examined, there were some standard points in a capture where privateers would threaten violence or hurt captains and crews. Multiple accounts of similar occurrences could help

243 “Brig American. (Town.),” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
244 Untitled, *Philadelphia Gazette*, April 5, 1797. Grant was on board the *Resolution* after having been forced off of the *George*. 
Legitimize the accounts as true. However, some of the more violent encounters broke those patterns, or had unusual elements that were not repeated in many other reports. On the Glasgow, privateers attempted to “excite” the crew to “assassinate” their captain themselves. Captain Pierce of the Maria reported an attack on a member of his crew after the privateer crew had already taken control of the ship. The captain of a privateer had beaten one of the Maria’s officers with a sword in a manner described as “unmerciful” and the officer died of his wounds a few days later. When Pierce told the Administration in St. Domingue, the privateer was imprisoned for three days and then set free. When Captain Briard of the Zephyr refused to abandon his ship until it had been formally tried, the captain of the privateer who captured him threw Briard overboard.

A lot of these stories are by their nature hard to support with evidence, since they were not the more official proceedings in a prize court, but interactions on ships that produced little paperwork other than statements of those involved. These more violent altercations broke the mold of other protests, and so did not even have the tacit corroboration of other similar accounts. If these statements were not trusted, then it gave anyone who heard about violence against mariners an excuse to ignore their claims.

Though ignoring these claims would be harmful, it is also important to acknowledge that some of the captains making protests had clear incentives to lie. If they actually had violated a law, it would not be in their interest to admit it in a protest, and

245 “A few remarkable cases of French captures, extracted from the newspapers,” in Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States, Residing in the City of Philadelphia, Referred to him, by order of the House, on the Seventh of May Last, (House of Representatives, 1797).
246 “Baltimore, November 17” Daily Advertiser, November 23, 1796.
247 Untitled, Philadelphia Gazette, April 5, 1797.
thus also admit that they were at fault for causing their employers to lose money. The case of the *Dispatch* hinged on 16 hogsheads of molasses that the Commission of the Windward Islands (the prosecuting body in this case) contended belonged to one Mr. Forbes, a British subject. The owners of the *Dispatch* wrote a statement that reproduced the events as Thomas Lunt, captain of the *Dispatch*, had explained them. In his version, the bill that the French had found that linked the molasses to Forbes was from a previous voyage, and the French were deliberately misrepresenting the date on the bill. Since the French never returned the *Dispatch*’s paperwork to Lunt, there was no evidence of who was telling the truth, just two sides saying that they were backed up by documentary evidence, but not producing that evidence. However, Lunt would have every reason to tell the *Dispatch*’s owners that the root of the problem was French meddling, since the alternatives were either that his sloppy paperwork had gotten the cargo confiscated or that he had been making an illegal trade while transporting their legal goods. Equally, the French would have to know that they could lie about the paperwork with impunity as long as they never gave it back.

This type of ambiguous situation was not made any easier when it came to more violent disputes with privateers. This chapter has previously touched on the case of the

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248 A hogshead is a barrel size used as a unit of measurement—it would hold about 63 gallons of wine.
249 Part of the issue in this case is a legal disagreement that is separate from any factual disagreement. The owners of the *Dispatch* claimed that the cargo being on a previous voyage meant that it was wholly unconnected from their cargo, while the French claimed that which voyage was immaterial as the trade with Forbes proved that the ship had traded in a British port. With that said, the discrepancy in the dating of the receipt is part of what made the case so damning.
250 “Brig American. (Town.),” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
*Diana*, in which, when threatened with violence, Captain Nehemiah Ingraham elected to write an acknowledgment that he did not have a sea-letter thinking that the fact that he was being threatened would invalidate his confession. Somewhat predictably, it did not. Instead the Tribunal of Commerce of Brest (the prosecuting body) viewed the confession as though it was obtained through normal channels and made it the centerpiece of their decision to condemn *Diana* and its cargo. The language the Tribunal used in their judgment treated Ingraham’s declaration as a statement of fact, that “it results from the language of the declaration made by captain Ingraham…that he had no sea-letter or passport.”

Despite all of this, Ingraham’s decision to confess had been the root of all of the legal trouble that cost his employers both ship and cargo, so he had an interest in making decision seem as unavoidable as possible. Throughout his protest he emphasized the seriousness of the threat that the privateers posed, saying multiple times that they “demanded” the statement from him, that the statement was “an act extorted by violence,” describing himself as both “threatened and surrounded,” and making sure anyone who read his protest knew that the privateers were “armed.” He also highlighted his own resistance, saying that in response to the initial request he “refused, as was his duty” before eventually relenting. There is no reason to think that Ingraham

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251 “In the Name of the French People: the Tribunal of Commerce, of Brest…,” in *Message from the President of the United States…Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797). The tribunal produced one witness, a seaman on the *Diana* who reported “that papers were thrown overboard at the time of the capture.” The seaman had some serious credibility issues; even though he had been imprisoned by French privateers, the Tribunal noted that he had been “set at liberty and entered into the service of the [French] republic.”

252 “Extract from the register of protest of masters of foreign vessels,” in *Message from the President of the United States…Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
specifically was lying, but this case does show that playing up violence or the threat of it could help to create a narrative that showed both that the crew had put up a fight for their property and that the loss of that property was a foregone conclusion.

Whatever the truth of the accounts, the violence of the conflict may well have been what the general public saw more than the volume of the seizures that were taking place. Looking at the sources that cover the conflict a clear pattern emerges: stories in the newspapers are more routinely violent than those in captains’ protests. Even in the construction of this chapter, almost all of the sources in the section on more routine occurrences are from protests and legal documents, whereas all of the more unusual stories are pulled from newspapers. There were articles that mentioned that many vessels were being taken, and there were lists of seizures, but these were more common in maritime papers, and would be easy to skip over in general interest newspapers. The accounts that did make the papers were not just more violent, they also often failed to mention that the seizures were part of a larger pattern. The opening of one article about a ship where the privateers had wounded four men told the story “A ship from Salem was taken by a French privateer to the windward of Turk’s Island passage: a British sloop of war heaving in sight, the Frenchmen quitted her,” acknowledging the seizure but not saying that there was anything unusual about a French ship stopping a US ship. With the violent interactions between French privateers and US mariners being portrayed, by and large, as isolated incidents, it would be easy to think of the maritime trade as

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253 “A few remarkable cases of French captures, extracted from the newspapers,” in Report of the Secretary of State, on the Memorial of Sundry Citizens of the United States, Residing in the City of Philadelphia, Referred to him, by order of the House, on the Seventh of May Last, (House of Representatives, 1797).
inherently violent, rather than recognizing a French campaign against the US that sometimes used violence.

There are a few different plausible explanations for the differences between the types of engagements generally described in protests and those that made the newspapers. The most obvious one is that the papers picked the most dramatic stories to publish, and so created a selection bias. It is also very plausible that a newspaper might highlight or even exaggerate some of the more exciting elements of accounts in a way that someone creating a legal document might not. Theoretically, it is also possible that the discrepancies in the amount of violence in different source material involved suppressing violence rather than highlighting it. A captain or member of the crew could make a protest at any point during the legal process when they could get time with a notary, and they could file more than one protest in more than one location. This meant that some filed protests in the cities where the privateers left them, and others waited until they were back in the US. When mariners filed protests in foreign cities, they ran the risk that they could be dealing with a notary who had ties to the privateers or to the French government that influenced their statements. One Captain King reported that as soon as he gave his protest to the French notary, the notary waited to be paid, then kept the protest.254 The quotes from Captain Stover that this chapter has used are drawn from his second protest, since he had previously “entered a protest while at St. Jago, but could not extend it, agreeably to his wishes, by reason that the notaries were entirely under the influence of the French captain and crew, (as appeared to him) and would not insert any

thing in the protest, but what they themselves approved of..." If the newspapers had a reason to highlight violence for the sake of sensationalism, then it is also possible that some of the protests could be concealing more violent incidents that were told to the notary, but not recorded, leading to a body of protests that are, overall, less violent. If anything, these issues highlight what is consistently the problem with these cases, the lack of evidence. Sometimes the story is all there is, even when those stories are consistently coming from sources with an agenda that could alter the content.

D. …and Consequences

But one might be asking, what happened to William Martin and the crew of the Cincinnatus after Martin was released from the thumbscrews? After the privateers saw the Diana, a British ship, approaching, they captured it. Concluding that the British prize was the one they wanted seemed to simplify things for the privateers. They could keep the Diana, loot her as they pleased, but spare themselves the burden of dozens of British prisoners by putting a portion of the Diana’s crew on board the Cincinnatus and sending them on their way. However, the privateers did not see an obligation to supply enough food to feed the additional men. After Martin asked, they gave him forty pounds of bread and told him that it would be enough as “they would soon have a fair wind.” By the end of the voyage, the crew was rationing food at “a buisuit [sic] per man per day” and seem to have avoided a worse fate only because they happened upon two other vessels that supplied them with more food. Unfortunately, they also encountered the third bad storm.

255 “Brig Valeria. (Stover.),” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
256 Putting prisoners from one ship onto another ship was not an uncommon tactic for privateers. In the case of the Mary, the privateers stopped the ship merely to put the captured crew of the Oracabissa on board, not to loot the Mary.
of their voyage. It had been a hard journey, but eventually the *Cincinnatus* made it into port.257

Living through three storms, torture, and a near brush with starvation may not seem like indicators of someone who is in the right place at the right time, but from another perspective, that is exactly what William Martin was. The situation within the US government was starting to shift. More and more merchants were aware of the French campaign against the US, and starting to put pressure on their government, through petitions and articles discussed in this chapter and elsewhere. Faced with mounting monetary losses for wealthy Americans, Secretary of State Timothy Pickering was forced to confront how much he did not know about the conflict. He acknowledged himself that it was hard to know the details of these cases because of the lack of physical evidence. His solution “to supply, in some measure, the want of official papers” was to make a study of the main place where the conflict was being documented: the newspapers. Pickering’s investigation consisted of examining about a year and a half of coverage of ship seizures in two newspapers from Philadelphia, which is to say, it was not exhaustive. It was, however, enough to convince him that there was a real problem. The fact that the US government had to go through back issues of newspapers to find intelligence on an international situation that was so apparent that even the most half-hearted investigation produced very convincing evidence is an indication of how seriously that government had previously taken the threat from France. The evidence had

257 “Extract of a letter from Rufus King, Esquire, Minister of the United States, in London, dated 19th April, 1797, enclosing the Protest of William Martin, Master of the Cincinnatus, of Baltimore,” in *Message from the President of the United States...Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
been there all along – Skipwith’s report of the damage from 1794 proved that. In fact, Skipwith’s investigation was published in the report that stemmed from Pickering’s 1797 investigation, presented as evidence with no comment on the fact that it was several years and many, many decrees ago.\(^{258}\)

Pickering’s introduction to the report lays out clearly many of the patterns in French behavior that had been lurking beneath the surface for years. He noted that captures were justified “for the single circumstance of [the ship] being destined to a British port.” He also acknowledged that the situation was worse in the Caribbean than in the Atlantic, that the “fullest effect [of French seizures] has been produced in the West-Indies, whose seas swarm with privateers and gun-boats, which have been called forth by the latitude allowed to their depredations.” Some of his harshest judgment was reserved for the judicial system, where “vessels and cargoes have been condemned, without admitting the owners or their agents, to make any defence [sic].” In his view, keeping the interested parties out of the courts was not just a “monstrous abuse in judicial proceedings” it was “done systematically, and for the obvious purpose of ensuring condemnations.”\(^{259}\) This was an important step, for someone in Pickering’s position to acknowledge, somewhat publicly, the coordinated efforts of the French. But, as was typical of the Quasi War, all of these grievances had to do with the loss of property, not harm that the French seizures were doing to humans.

\(^{258}\) “Report Of the Secretary of State, respecting the depredations committed on the commerce of the United States, since the first of October, 1796,” in *Message from the President of the United States…Instant* (Philadelphia: House of Representatives, Printed by W. Ross, 1797).

\(^{259}\) Ibid.
Indeed, there is little mention of the dangers to humanity until Pickering brings up William Martin. It is clear that Martin’s protest made an impact on Pickering. He began the paragraph on Martin in the usual manner of putting property before people, writing that there “have been frequent accounts of attempts to effect condemnations by bribing the officers and seamen of our vessels to swear falsely.” Pickering took a turn however, and seemed to imply that the more shocking development was that “when offered bribes were refused and threats despised, [privateers] endeavor[ed] to accomplish the object by TORTURE.” The emphasis on the word “torture” is his.

Though putting the word in capital letters indicates that the mere fact of the torture was significant and possibly shocking to Pickering, what seems to have been remarkable to him was not just what had happened, but that he believed Martin’s story to be completely true. What Pickering emphasized here was not the horrors of the crime, but the proof that it happened, that Martin’s story “is supported by the testimony of his mate and one of his seamen.” Martin was a uniquely compelling witness precisely because of the horrors of what had happened to him. Not only were thumbscrews a dramatic choice of weapon, they were a choice that left a distinctive mark. The impression of the screws that had been applied to his broken thumbs could still be seen on those thumbs. Martin was convincing not just because he had an easily provable injury, but because his injury was seen by the right person. After he landed in London, the US Consul, Rufus King, examined his hands and noted that the marks came from a

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260 Report Of the Secretary of State, respecting the depredations committed on the commerce of the United States, since the first of October, 1796,” in Message from the President of the United States...Instant (Philadelphia: House of Representatives, Printed by W. Ross, 1797).
thumbscrew.\textsuperscript{261} Pickering received a copy of Martin’s protest as well as confirmation of Martin’s story from another US government official, a fact he cited as further proof of Martin’s story.\textsuperscript{262} If ever a story from a protest was going to be trustworthy, it was this one.

Pickering closed his report with a paraphrase from King’s letter about the damage that Martin had sustained to his thumbs, that “the marks of the torturing screws will go with him to his grave.” Using this story as the finale to his report indicates that it was information of value, or that he knew would be affecting. One has to wonder if believing Martin’s story helped Pickering to believe the other stories that he read that did not have the same preponderance of evidence. The fact that he both felt the need to provide proof for Martin’s story but seems to have unquestionably believed other stories of violence could indicate that this was the case, that he was providing proof for Martin because he wanted to show his readers that there was a reason he believed this trend. Whatever the reasons, Pickering’s acknowledgment of the human cost of the Quasi War is significant, if brief. He wrote that “The persons also of our citizens have been beaten, insulted and cruelly imprisoned,” and implied harm to US citizens (as well as cargo) when he wrote that French “cruisers are guilty of wanton and barbarous excesses, by detaining, plundering, firing at, burning and distressing American vessels.”\textsuperscript{263} Pickering’s report

\textsuperscript{261} “Extract of a letter from Rufus King, Esquire, Minister of the United States, in London, dated 19\textsuperscript{th} April, 1797, enclosing the Protest of William Martin, Master of the Cincinnatus, of Baltimore,” in \textit{Message from the President of the United States…Instant} (Philadelphia: House of Representatives, Printed by W. Ross, 1797).

\textsuperscript{262} Report Of the Secretary of State, respecting the depredations committed on the commerce of the United States, since the first of October, 1796,” in \textit{Message from the President of the United States…Instant} (Philadelphia: House of Representatives, Printed by W. Ross, 1797).

\textsuperscript{263} Ibid.
was part of a larger movement toward governmental action. Though he pursued his newspaper investigation of his own volition, the report that contained it was requested by the House of Representatives. The US Navy was being built in order to fight back. However, Pickering’s report is also unusual, in that, if only just for a moment, it writes about the truths of the Quasi War that few others deemed important. Violence was a regular part of French privateer seizures, and it supported a system that was designed to keep US citizens from defending their property. Cargo was being lost, but also people were being hurt, and their stories deserved to be believed.
CHAPTER V

“EMBASSY TO THE COUNTRY OF THE SAVAGE” 264

As the Tom pitched in the waves, Captain John Bailey looked out at the rising water, and began to remove the outer layers of his clothes. He knew that soon he would have to be swimming for his life, and did not want to be weighed down by a bulky hat and coat that would make it harder for him to avoid sinking to the depths of the Atlantic. 265 It was a risky move, as in the dead of the winter of 1799, the air around him could have been almost as cold as the water he was preparing to leap into, but at this point, his clothes were the only part of his surroundings that he still had any control over. As he looked around the Tom, the ship that he used to command, he would have seen very few friendly faces. The French privateers who seized the Tom had taken both crew and passengers onto their own ship, except for one passenger, a Mr. Bowen, and the Tom’s cabin boy. Even as prisoners on the privateer’s ship, the rest of the crew may have been safer. 266

The danger that now faced Bailey and everyone else on the Tom was the not entirely uncommon disaster of a rapidly sinking ship. What was more unusual was that the ship was sinking not because of a storm, though the weather was not exactly favorable, but because the person in charge wanted it to sink. Since the ship had been

264 William Handy described Charles Cotesworth Pinckney’s mission as ambassador to France in these colorful terms in one of his letters to his fiancée; William Handy to Abigail Saltonstall, April 1, 1797, William Handy Letters, 1796-1832, New-York Historical Society.

265 John Bailey to Thomas English, February 28, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.

266 John Bailey to I. Cox Barnet, January 28, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
captured, that person was not Bailey, its captain, but the privateer who had been chosen as prizemaster by the invading crew. Just off the coast of southern France, the prizemaster spied a British frigate and presumed that his prize was about to be stopped, boarded, and taken away from him. Once he realized that he was going to lose the *Tom*, the prizemaster determined that he would rather lose it altogether than lose it to the British, and commanded his crew to steer the *Tom* into the shore. As the *Tom* barreled into shallow waters, the rudder struck a rock and broke, and waves began to break over the side of the ship. Everyone on the *Tom* knew that they could not continue onboard the ship, but not everyone was ready to swim. Privateers and captured Americans alike scrambled for the boat and oars, and, decided to, in Bailey’s words “Commit our Selves to the mercy of the waves.” Bailey would later write that as he climbed into the boat, he had “Very little [sic] hope of saving our lives.”

The boat made it safely to shore, but even though he was safe, Bailey seemed to feel an acute sense of loss. Over the next few weeks, he would recount the tale of the wreck of the *Tom* over and over again, to investors, merchants, government officials, and fellow mariners. His story did not change much, just a few details added or subtracted, and even a lot of his phrasing was consistent. One of the details that remained constant through every retelling was how he described his feeling as he stood on the shore, watching the ship he had commanded turn into a wreck. He kept coming back to the idea that he “had not a Coat to put on my back nor a hat on my head.” He had thrown these most basic necessities to the side as he prepared to swim for shore, but now, standing in a

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267 John Bailey to Thomas English, February 28, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
foreign land, he realized how exposed he was. He spoke no French, and had no one who could help him figure out the situation he described, in a rather understated manner as “disagreeable.” By the next morning, the wreck of the Tom washed up on shore, and Bailey sorted through the wreckage to salvage what he could of his belongings. The only things that he could find were some of his clothes, his hat, and his coat.268

Up until this point, Captain John Bailey’s story resembles that of many of the mariners previously discussed, albeit more dramatic than some. But while the experience may have been similar, the background was quite different. Though the Quasi War would never be declared, starting in 1798 the US took a more active role in the conflict. The fledgling US Navy was deployed to shepherd vessels up and down the US coast to defend them from privateers.269 The federal government had sent envoys to France to enter into negotiations to stop the attacks and get payment for the property that had been lost.270 The conflict had reached the highest levels of government, with Alexander Hamilton proposing an additional armed force to counter an invasion. Commodore Thomas Truxtun had even won one of the two famous engagements of the conflict; his battle with L’Insurgente that was then memorialized in engravings and on household objects.271 The Quasi War was as close to a national story as it ever would be. Captain

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268 John Bailey to I. Cox Barnet, January 28, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
269 See Stoddert’s War for details on the convoys that the US naval fleet escorted, and for more detail on building that fleet.
270 See The Quasi War and “The French Spoliation Claims” for more information about the negotiations and eventual treaty.
Bailey may not have been in the US, but the fact that the US government was willing to help had implications even across the ocean.

A. Bailey’s Predicament

Even if the level of engagement of the United States had changed, the rules that French courts followed largely had not, which would rapidly become a problem for Bailey. His employer, the merchant Thomas England of Boston, placed a great emphasis on the speed with which he could complete his journey, which, after leaving Boston, would take him to Charleston, then St. Petersburg, with the final stop in London before returning home. English stressed that “dispatch is the life of Business” and in every letter exhorted Bailey to move as fast as possible. The continual emphasis on speed may explain why neither English nor Bailey ever obtained a rôle d’équipage. Even separately from the paperwork issues, English had put his cargo in danger. One of the products that was shipped was hemp, which could have been a problem if a court wanted to use a broad definition of contraband. Furthermore, English had a business partner who was British, Thomas Dickason, and a stop in London. Evidently English did not think his British connections would be a problem, since he made no secret of the destination, even repeating the instructions about the British connections multiple times in one of his letters.272 Bailey also did not seem to think that trade with Britain would be a problem, since he listed his destination at London on his export permit from the port of Charleston.

272 Thomas English to John Bailey, February 13, 1799, Thomas English Papers, Reel 1, Massachusetts Historical Society.
Since he would be stopping in St. Petersburg before London, he could probably have avoided using it as his destination without much legal trouble.\textsuperscript{273} The contraband and British connections may have been shakier legal ground, but even if Bailey had been sailing with a rôle d’équipage, a determined privateer would not have had to look far to find grounds to bring him into court.

It is safe to say that Thomas English’s hopes for the Tom’s speedy return were wrecked at the same time as his ship. John Bailey now had a more complicated objective. He had to assess the damage to the Tom, keep the French from condemnation it, make the privateer’s owners pay for the damage, then figure out a way to get back to the United States. And he had to do this all while keeping himself and the cabin boy from dying of exposure or starvation. This was not the only course of action that Bailey could have pursued. He could have immediately given a wrecked ship up as a lost cause and focused on making his way back home. If he did that, however, he would have had to explain himself to Thomas English, a prospect he did not seem to relish. In the aftermath of the wreck, Bailey sent several versions of the same letter describing his situation to two different US consuls, Dickason, and one of his maritime contacts. In each letter he gave a detailed description of the capture and the wreck, highlighted his own situation as having very few resources and no idea what to do next, and asking for help. He did not, however, send this or any other letter to English, until after he had heard back from several of his initial contacts. Bailey was initially able to get some money from Bowen, and borrow from another contact that he met, and he hope that he would “be able to pay

\textsuperscript{273} Port of Charleston Export Permit, Thomas English Papers, Reel 1, Massachusetts Historical Society.
all my bord [sic] for my self and boy without drawing any more…Except I am detained for longer than I hope to be.” He wrote that letter at the end of March 1800, three months after the crash that wrecked the Tom, but he would not return home until 1802.

As he tried to navigate the complicated task of regaining the Tom, Bailey felt isolated. In his initial letters to most of his contacts, he despaired that he had “no one to advise with.” In a letter to the Consul of Nantes, P.F. Dobrée, he recalled that only one of the people he had met in France “has been friendly, but…he is gone to Bordeaux & left me without any person to assist me.” When writing about why he stayed in France even though he did not seem to have a concrete plan on how to get restitution for the Tom, Bailey maintained that he stayed because “I thought it my Duty for all Concerned.”

The others “concerned” may not have felt the same way. Dickason, the investor, did not seem to think that Bailey should be the one directing the process of recovering the Tom; Bailey later summarized Dickason and Co.’s opinion as believing that Bailey should “have Valued my Claim and have made proper information to my Owner Whose Directions I would have followed.” He received this direction about nine months into his time in France, and his exasperated response was to note that “you judge Right in supposing I should inform my Owner…but how could you think that I could receive Instructions from how to proceed I Cannot think – when I have been Expecting

274 John Bailey to P.F. Dobrée, March 23, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
275 John Bailey to P.F. Dobrée, February 6, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
276 John Bailey to Dickason and Co., January 28, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
my Case to be judged one month after Another Ever since I arrived in France.” The Quasi War tactic of delaying the trial indefinitely was alive and well, and Bailey was not wrong in saying that it would be hard for his owner to direct him through that intransigence from across the Atlantic.

Perhaps the bitterness of Bailey’s showed not just that he was frustrated with the French, but that the suggestion that he apply to English for help hit him hard. Bailey wrote to English several times during his first year in France, each time beginning his letter with a summary of what had happened to the Tom. A little over a year into his stay, he told Thomas English outright what these repeated and exhaustive summaries only implied: that Bailey had never received a reply from English. Bailey did not even know whether English knew the Tom was wrecked, so he kept retelling the story, over and over again, each time adding new details about his attempts to avoid condemnation of the Tom’s cargo and get payment from the government. He tried to remain polite, noting “I am yet with the Pleasure of Receiving a Letter from you…ever since I have being [sic] in France, but I am, still in hopes of receiving on [sic] soon,” but it sounded a bit forlorn. Throughout his entire time in France, Bailey never stopped writing English. He never received a response.

B. Intervention

277 John Bailey to Dickason and Co., September 1, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
278 John Bailey to Thomas English, March 6, 1801, Thomas English Papers, Reel 1, Massachusetts Historical Society.
All of this might sound bleak, but Bailey did have an unexpected ally on his side: the US government. It is a mark of Bailey’s own faith in the government that he even reached out for help; some of his first letters were to the US consul at Nantes, the US Consul at Bordeaux, and a former Consul. All replied with advice for him on his situation, but one in particular seemed to take his case to heart. Pierre François Dobrée, US Consul at Nantes began by simply offering legal advice. Before he knew most of the specifics of the case, Dobrée gave what seemed to be his standard advice for someone who had had their ship captured by French privateers: make a protest that mentioned both the way in which the Tom was taken and any mistreatment he himself had experienced, and, importantly “Sign nothing.”

As Dobrée became more acquainted with Bailey’s case, he made more specific recommendations, and suggested others who could help. For the first part of his stay in France, Bailey was living in Les Sables-d’Olonne, a seaside town close to where the privateers wrecked the Tom, but 66 miles away from Dobrée in Nantes. Though Dobrée could still advise, there would always be a time delay, so Dobrée set Bailey up with a local contact who could assist him further. This contact in turn introduced him to a notary who took his protest, and a lawyer who could hear his case. When that did not work out, Dobrée set him up with another lawyer. Dobrée even assisted in smaller matters: when the lawyer needed help with the exact text of different French regulatory laws, Dobrée sent the documents over.

279 P.F. Dobrée to John Bailey, February 10, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.  
280 John Bailey to P.F. Dobrée, March 23, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.  
281 John Bailey to P.F. Dobrée, March 17, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
advice and contacts, Dobrée supplied Bailey with money, first by putting him in touch with another local contact, and then by giving Bailey with money himself. Bailey later recorded that he had received 1,200 livres from Dobrée during the first seven months of his time in France.  

It seems from Dobrée’s letters that this generosity on his part was sanctioned by the US government. In the letters to Secretary of State Timothy Pickering from both Dobrée and I. Cox Barnet (the Consul at Bordeaux that Bailey had also written to about his situation), the Consuls corresponded about Pickering’s authorization to spend money on caring for the mariners who had been captured by the French. Contrary to previous years, the welfare of mariners now seemed to be as much as or more of a priority for the State Department than the return of captured vessels. Both Dobrée and Barnet conducted their business as though they had instructions on how to help the captured seamen (they would pay the expenses and then submit bills to the State Department for reimbursement), but Dobrée in particular complained that he had never received any instructions about how to proceed in terms of retrieving the ships that the French had taken. He and Barnet were united in this, even if Dobrée was the one giving voice to the thought, writing “we both join in our earnest prayers to direct us in our duty toward captured vessels.” At times his letter to Pickering took on the tone of Bailey’s letter to English, when he observed “I have often requested your instructions on this…& am extremely sorry to be until now deprived of them.”

282 John Bailey to Joseph Pitcairn, June 7, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
Though he may have been helping Bailey and others with the support of the US government, Dobrée was not just following orders. He felt keenly the losses of the men he tried to help and would go out of his way to assist them. Dobrée wrote to ask Bailey about his situation before he had even received Bailey’s initial letter asking for help. An acquaintance had given Dobrée a “dismal description” of the wreck of the Tom, and he immediately offered his assistance. Dobrée’s personal involvement in Bailey’s case did not go unnoticed or unappreciated. Bailey told to his investors that “Mr. P. F. Dobrée has furnished me very kindly with Every assistance in his power” and to English that “Mr. P. F. Dobrée has been very much my friend ever since I was ship wrecked.”

Bailey was far from alone in terms of receiving Dobrée’s assistance. The consul had made it a personal mission to try to help as many mariners as possible. He told Pickering “I have wrote to my correspondents in every port to inform me if any American arrived there by capture or otherwise & if circumstances require it, appoint there an agent or send someone from my office.” Perhaps the reason that Bailey did not have to suffer the imprisonment that characterized the experience of so many mariners during the Quasi War was because of Dobrée. Dobrée stated with pride to Pickering that “I have now here no distressed Seamen: I have provided for them all…notwithstanding the number of captured Vessels that have been brought here & condemned, I have had the satisfaction to

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284 P.F. Dobrée to John Bailey, February 14, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
285 John Bailey to Dickason & Co., April 9, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society; John Bailey to Thomas English, June 9, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
save every one of their Crew from prison.”\textsuperscript{286} For Dobrée, this was what success in the Quasi War looked like.

As to why Dobrée was making so much of an effort, it seems that separate from the directives that he received from the State Department, he viewed freeing US citizens as a critical part of his duty. He mused “how cruel it would be should I by neglect or oversight leave an unhappy American in prison, which I could get released.”\textsuperscript{287} This was an entirely different Quasi War than other captains had written about. Bailey had to feel the traumas of the shipwreck, and his time away from home was not easy, but thanks to Dobrée, he did not have to worry about starving. In Dobrée’s letters to Bailey, he also wrote of his personal desire to help captured mariners, but with a bit of a different angle. He commented “I have always held it to heart that the unhappy American Seamen…should enjoy the Benevolence of government to its greatest extent…,” not quite acknowledging that the US government had a duty to its citizens, but implying that it would be good for that government to be more “benevolent” toward citizens in need of help.\textsuperscript{288} The phrase “to its greatest extent” implied that even though he was making a lot of personal effort to help US mariners, it was not entirely a personal mission. He viewed


The statement that none of the seamen in Nantes were “distressed” was not accurate for long. Shortly after writing that letter to Pickering, Dobrée was confronted by the letter from William Brooks, then living in a house Dobrée had set up for him and other mariners, informing him that Brooks was unhappy in his living situation and believed that he might die there. Dobrée wanted to know the truth of the situation, so he called on John Bailey, another mariner from Massachusetts and a friend of Brooks’ captain, to question Brooks and see the nature of his complaints.

\textsuperscript{287} Ibid.

\textsuperscript{288} P.F. Dobrée to John Bailey, Undated, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
himself as an arm of the government executing its powers toward people who were, to some degree, entitled to receive them.

**C. The Maritime Network**

Though Dobrée was a powerful friend and ally for Bailey, the captain could still rely on the maritime network that had helped so many others throughout the Quasi War. The circumstances of Bailey reaching out for help were different than they had been for those who came before. Sometimes the maritime network served similar functions as it had during the earlier parts of the conflict; as a device to let each other and people at home know who had been captured and where they were being held. However, there were some differences. Bailey was not imprisoned and Dobrée was assisting him with money, so he did not need other captains to advocate for him, give him food, or take him back to the US. It seemed, at times, that what he really needed was a friend. Even before he was getting help from Dobrée, he sought common experience with other captains. He wrote to John Connor on a rather flimsy pretense of having heard about him from some unnamed “gentleman,” because he “understood…that you [Connor] have being [sic] unfortunate like my Self.” For much of the letter he stuck close to his standard talking point about the *Tom*, but was more informal, slightly paraphrasing his line about losing his hat and coat, dispensing with some of his more flowery language, and using more nautical terms.289 Even with a captain that he did not know, he was comfortable. Bailey and several other captains in France awaiting trial wrote to each other, comparing notes on their experience of being captured, and it seems that the others felt some of the same

289 John Bailey to John Connor, January 28, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
bond that allowed them to relax. Captain John Blacklee heard that Bailey, who he did not
know, was inquiring about him, and wrote to Bailey, beginning by commiserating that “I
am unhappy to hear of your misfortunes & am sorry to say my case is so much like
yours.” In this case, Blacklee and Bailey may have been strangers, but they were already
connected through their personal networks. Before Blacklee left Marblehead, he had
dined at Bailey’s house with his family as a guest; he promised Bailey that should he
return first, Bailey should “be assured I shall take the liberty to inform [your family] of
your situation.”

It seems that one of the biggest comforts that the men could provide each other
was validation of their experiences, not just during their capture but after it as well. They
kept each other up to date on their cases: what had worked for them, and what had not.
Jesse Smith, another mariner, complained to Bailey that he had hit another brick wall in
his attempt to regain his ship, and advised Bailey to avoid the tactic he had used, but also
added “they may say what they will about our presence not Being neseary [sic] But I
know Better.” He did not make it clear exactly who “they” were, but he implied that
he and Bailey had commiserated over being told that they were not needed in France.
The twinge of anger in Smith’s tone shows the other use of the letters: here the captains
could unburden their frustrations without the reserve that they would have to exhibit
when writing to someone like Dobrée. Captain Casson wrote about a setback in this case,
that his opponents were “all a darnd [sic] set of roges [sic] And I will Stick to them to the

290 John Blacklee to John Bailey, April 20, 1800, Thomas English Papers, Reel 1,
Massachusetts Historical Society.
291 Jesse Smith to John Bailey, August 28, 1800, Thomas English Papers, Reel 1,
Massachusetts Historical Society.
last.”

Even though the captains were not providing each other with the same kind of life-saving aid that previous chapters have discussed, they still served an important function, keeping track of how their cases were going, and, at the same time, keeping track of each other.

D. The Tom

Though Dobrée was more involved than most agents of the US government, there was a limit to how much he could help. He could assist Bailey in navigating the French legal system, but ultimately he could not change it. Even during this more active phase of the Quasi War, war was never declared and the 1778 treaty between France and the US was still intact. Given that some cases of seizure that hinged on the rôle d’équipage used the treaty as proof that the rôle was required paperwork, the French could argue that the US, an ally, had broken their agreement. Dobrée realized this, and in his first letter after hearing Bailey explain his situation, was pretty frank about hopelessness of the case for the Tom. He wrote “the moment you have no Role, you [were] actually condemned &…you must expect it.” Indeed, Dobrée almost never expressed any hope that Bailey could win his case. That is not to say that Dobrée did not have a plan to get payment for the Tom, he just thought of the judicial system as a tool in getting that payment in other ways, rather that the vehicle by which the payment would be awarded. Throughout the process, Dobrée tied the fate of the Tom not to its legal case, but to the arrival of the envoys from the US to negotiate a treaty to end the Quasi War. He thought that the envoys would have to come to some agreement regarding cases that were still open, so as

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292 Jeline Casson to John Bailey, April 10, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
long as Bailey’s case was still active, he had a good chance of seeing a payout. His advice was to “keep this Suit in a train of appeal to enable the Envoys to see the end of it.” Dobrée truly believed that the envoys were the answer, and he kept Bailey updated as to their movements and the status of their negotiations. His attitude was infectious; Bailey wrote “it is Purported that our Envoys will leave Paris soon which gives me great hope that they will settle [sic] the mission they came for.” That he viewed his case as a real part of the mission indicates that other parts of Dobrée’s worldview, namely that about the government showing benevolence toward its citizens, may have transferred to Bailey.

Dobrée’s tactics circumvented one of the French governments’ chief weapons in the Quasi War: delaying. By paying the expenses for captains and seamen, he allowed them to stay longer in France, and by freeing them from prison he also enabled them to take a more active role in their ships’ defense. Not only did Bailey develop his own sources within the French government to tell him how the case of the Tom progressed, he kept track of the US government too, writing to English that “I have allways [sic] made it my business to Call on our Envoys.” In a way, Dobrée took the idea of delaying trials and made it work for the US merchants and seamen, instead of against them, by delaying until the agreement was reached. The Tom was condemned, but Bailey appealed. The Tom was sold and its cargo would soon be too, but Bailey still had hope because the case

293 P.F. Dobrée to John Bailey, February 6, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
294 John Bailey to P.F. Dobrée, November 27, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
was ongoing, as were the negotiations.\textsuperscript{295} In the end, this plan paid off, somewhat. The two governments agreed that France would repay half of an agreed-upon portion of the damages, and that the US would pay the other half. Bailey did end up getting paid, but the money came from the same source that had supplied him for his entire time in France: his own government.\textsuperscript{296}

E. The Return

Dobrée’s plan worked. The mariners he cared for were safe and their property was restored. Bailey collected his paperwork and arranged with Dickason and Co. to be paid for the years he spent in France. He made these arrangements without Dobrée. Though Dobrée no doubt knew from the terms of the agreement between the US and France that he had succeeded, he would never get to see the consequences of all of his hard work, since he died before the agreement went into effect. Bailey was now left to deal with a problem Dobrée could not help him solve, and that had much more far-reaching implications for him than the loss of a ship: the rift that his absence had created between himself and his family. Dobrée’s tactics of delaying as long as possible were a double-edged sword. Bailey could, and did, stay in France for years, but he spent all of that time away from his family, never able to tell them when he was coming home. In truth, Bailey seemed less eager than others to return; other captains wrote to him of their

\textsuperscript{295} Even though the \textit{Tom} was wrecked, the wreckage was still sold, for very little money, probably as salvage.

travel plans, but he did not respond in kind. Blacklee wrote that he was “watching a wind, I shall Embrace the first Opportunity in getting towards the U States.” Bailey was either too devoted to his mission or too desirous to stay in France to express similar desires.

A year into his stay in France, Bailey received a letter from his brother-in-law, John Candler. Candler was writing to him “by the request” of Bailey’s wife, Mary, and informed him that his wife, children and the rest of the family are well. Though the letter made no specific demand that Bailey come home, it did not have to, since that demand was implicit in almost every line. The body of the letter was a recitation of what had become of the crew of the Tom, Bailey’s crew. Candler wrote about them individually, and how many of them had returned home. This could function as a comfort to Bailey, that the men he was responsible for were safe, as well as suggestion that if they could return, so could he. Candler wrote that Bailey’s family was “all very desirous to See you but as gods will must be don [sic] we must wait till deliverance comes,” a line which communicated concern, as well as a bit of a passive-aggressive guilt trip.

The root of the problem became apparent in the next section of the letter, where Candler listed a catalogue of the misfortunes that their immediate community had experienced in Bailey’s absence: two captains were dead, a little boy had died, and Thomas English had closed his establishment. The last tale that he listed was that of Bailey himself: “we begin [sic] to think Capt Baily [sic] was dead as it was 5 or 6 Months before we had any accts of you.” Referring to Bailey as both “Capt Baily” and “you” in

297 John Blacklee to John Bailey, April 20, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
the same sentence shows both the disconnect, as well as the chiding tone of the letter. Bailey responded without much in way of apology, just that he was about to conclude his business and would be home soon. Perhaps realizing that even if his wife was not the author of the letter, the sentiments came from her, on the same day that he responded to Candler, Bailey penned a more emotional letter to his wife. He wrote that “this…will be as disagreeable for you to read as it is for me to write” and reiterated that he was almost done with his business, and that he was very “unhappy” but “not yet reddy [sic] to leave france.” He wrote of the business of the Tom that “I had no idea of the task I had taken in hand…But as I had…got so far” he would “endeavor to make a finish of it.” Like Dobrée, he said he felt a sense of duty, and of responsibility, to do his job not just to the best of his ability, but to the point where it could have seemed excessive.

Eight months later, Bailey was still not home, and Mary Bailey wrote him a letter that indicated why she might have previously delegated the task to her sister’s husband. She started to pen “I write you” but, possibly realizing that was not the most accurate depiction of her situation, rubbed it out and wrote instead “I again write you.” Mary Bailey had asked her husband to come home, but her husband was not home and she was distraught. She lamented “I have been so Long Looking for you that I am almost out of hope of Ever Seeing you again,” but the hope was not totally gone, as she wrote that she kept her letter short, because she was hoping that he would be returning from France at

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298 John Candler to John Bailey, Undated, Thomas English Papers, Reel 1, Massachusetts Historical Society.
299 John Bailey to John Candler, March 19, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
300 John Bailey to Mary Bailey, March 19, 1800, Thomas English Papers, Reel 1, Massachusetts Historical Society.
the same time her letter was headed there, and he would never know its contents. It is a measure of her distress that she consoled herself, “if we are never to meet again in this world, I hope we shall meet again in heaven.”

Bailey had clearly caused a deep pain in someone who loved him, but Mary Bailey did not entirely blame him for it; the real culprit for Mary Bailey was not necessarily John Bailey, but the international situation he had found himself thrust into. Mary Bailey had thought that “at one time I thought there Could but be a treaty you would then be able to Settle your business in a short time and when I found out there was piece [sic] with america and france I look for you every day but that time has past away.” Though Mary Bailey referred to a definite peace between the two nations that warred without declaring it, she did not seem to feel like the conflict had a finite end. This was true on a personal level, because her husband had not come home, but also on a national one. In her mind “all must be pieces [sic] and the French Land join America before you Can get home.”301 This may have been a comment on Bailey’s postponing his homecoming indefinitely, but also referred to a truth of the Quasi War, that the end did not always look like an end.

John Bailey returned to Marblehead, later than his family had hoped, but he returned nonetheless. For him, the Quasi War ended later than it does for most historians, as he did not conclude his business until well into 1802. His letters present, as every collection of documents must, an incomplete picture of the man who penned them. The theme of duty is present in many of them, as a motivation for standing by his ship, even

301 Mary Bailey to John Bailey, November 21, 1801, Thomas English Papers, Reel 1, Massachusetts Historical Society.
after it had been seized and his investors had told him to desert it. However, in fulfilling one duty, he shirked another, that which he owed to his family. It is hard to know whether this choice of loyalties was a calling or a shield, whether Bailey was truly compelled to stay in France past the time most reasonable people would leave because he knew leaving would mean abandoning his charge, or whether he knew that was how he was supposed to feel and wrote the explanation that would allow him to continue living in Paris. Though it is hard to know how sincere John Bailey’s sense of personal duty was, it is certain that duty, though that of a different nature, kept him in France. Bailey was not like the other mariners: for many of them, a sense of abandonment is the dominant emotion that they communicated about the aftermath of their captures. But Bailey’s abandonment faded. He forged a network, both in the maritime and diplomatic community, even calling on the US envoys himself to ask for updates on negotiations. Though he was frustrated by the legal system that kept him from his ship, he was never at a loss for what to do to get it back: P.F. Dobrée always had a plan in place. It had taken years for the US government to see the duty it had to the mariners hurt by the Quasi War, but by the time Bailey crashed into the French coastline, it is clear that at least some of its diplomats understood that their job was to preserve the people who manned the ships, not just the property they shepherded. The wreck of John Baileys ship may have been abandoned, but John Bailey the man never was.
CONCLUSION

DOUGHNUTS AND DESCENDANTS

“Embrace for me a thousand times my dear dear girls, my too fondly loved children. Teach them not to forget me.” – William Handy

In August of 1904, eight-year-old Eugene Dorr Morse promised his mother, Helen Dorr Morse, that he would stop eating doughnuts. This was not a permanent or binding vow; rather he agreed to take a two-year sabbatical from doughnut eating, in exchange for five dollars. Mother and son formalized their agreement in contract form. Eugene wrote down the terms, his wide, uneven, and slightly shaky hand showing that he was probably still learning how to write cursive script. He referred to Helen as “mother” and himself as “me” so Helen wrote another line clearing up the matter by listing their full names. At the bottom of the page, Helen documented the moment, two years later to the day, when her debt was paid. Helen and Eugene signed the informal contract at the start and then again at the finish of their arrangement. Eugene’s second signature was neater (this time, the g in his name was recognizable as such), but the uneven ink distribution suggests that he had to work hard to make it so.

302 William Handy to Abigail Saltonstall, August 12, 1806, William Handy Letters, 1796-1832, New-York Historical Society.
303 For some, five dollars would not be enough of a reward for giving up doughnuts for such an extended time, but Morse actually got a pretty good deal – in today’s money, that five dollars is worth between 112 and 147 dollars. That’s enough to buy a lot of doughnuts.
This private moment between mother and son may seem as distant from the Quasi War in subject matter as it was in time, but that is not the case. Helen, Eugene, and their doughnuts, or lack thereof, were how the Quasi War finally limped to a close.

Wars are not always ended by combatants laying down their arms, politicians signing a treaty, or historians putting a date after an en dash. And if a war has no beginning, how could anything so concrete signify its ending? The Quasi War might have ended in 1801, but the 1801 Treaty of Mortefontaine was an attempt at resolution that left many questions unaddressed. What would stop the French from simply picking up their campaign of ship seizures where they left off whenever they felt like it? Nothing. Later US government documents referred to Quasi War seizures as “French Spoliations prior to 1801” to differentiate them from all the subsequent times French privateers stopped US ships.³⁰⁵ Would there be some kind of reckoning for the treatment of mariners during the ship seizures? No. The money that the US government paid out in the wake of the Quasi War sometimes compensated captains like John Bailey for their time, but most of the compensation was for damage or loss of property, not the injuries experienced by mariners. The biggest unresolved issue at the end of the conflict revolved

³⁰⁵ These post-1801 seizures had different motivations than the 1790s seizures. Privateer seizures were a normal part of maritime life at this point so no one expected the number of seizures to be reduced to zero. It was the volume and reasons for them that were unusual during the Quasi War. The massive campaign to disrupt US trade with Britain did not have the same force after 1801, but French privateers enforced a kind of blockade around St. Domingue, to prevent trade with the people they had enslaved. There was actually a subcategory of French privateer claims called “The St. Domingo Cases” - these took place after the Quasi War end date of 1801 but advocates argued for repayment of these losses at the same time as they fought for Quasi War claims. This was not the case with other post-1801 French captures, suggesting that there was some distinction between normal privateer activity, and privateer activity that was seen as more overtly politically motivated. For more on “The St. Domingo Cases” see the Causten-Pickett Papers, Library of Congress.
around this emphasis on property loss: some of the merchants, investors, and insurers had
gotten their money back, but not all of them. For the next century, the Quasi War would
live on, not through history books, museums, or heroic myths, but through the advocacy
and legal cases that led to the government repaying these outstanding debts.306

The repayment was gradual, and the road to get there was painstaking. Oddly
enough, in order to redeem their losses from the Quasi War, claimants had to prove it
never happened. The US government argued that as the conflict was a war, the
government was not responsible for losses of people who could be regarded as
belligerents in that war. This claim did not hold up under scrutiny; even a report
produced by a US senator acknowledged that the French valued their relationship with
the US too highly to commit to a declared war. Ultimately this argument was rejected:
the emphasis in the Quasi War would remain on “quasi” not “war.”307 The crucial
judgment of whether Quasi War cases would receive payment was made in 1885, but
there were still payouts being made as late as 1926. These “French Spoliation Claims” as
they were called, were largely benefits for people who already had money. The claims
were restitution for large amounts of lost property with objectively understandable
importance, like a ship or its cargo, not small amounts of property with outsized

306 There are several articles that give a good picture of the complexities of the nineteenth
century claims. A very clear overview can be found in Henry Bartholomew Cox, “A
Nineteenth-Century Archival Search: The History of the French Spoliation Claims
accounts that trace parts of the decades long process include George A. King, “The
French Spoliation Claims,” The American Journal of International Law 6, no. 2 (April
307 For more information on this argument and the court case that surrounded it, see
Law 6, no. 2 (April 1912), p. 373-376.
emotional weight, like John Bailey’s hat and coat. Moreover, these claims were only designed to replace that which had a fixed monetary value, rather than the harder to define value of human life and limb. Those who had a claim were usually not following up on that claim by themselves: most had lawyers on hand for some or all of the century between the loss during the Quasi War and whatever payment they got. There was some independent organizing, but many of the people who reached the end of the nineteenth century with a payment had enough money for a significant number of an attorney’s of billable hours.

Many of these claims were unsuccessful. The underwriters who insured Joseph and John Dorr’s Ariadne filed several separate claims to get their money back, but were rejected every time. Andrew and William Dorr were listed as taking a loss on the Jane and having filed a claim, but no decision was recorded in their case, somehow fitting for a schooner that already had a somewhat mysterious fate. John Bailey’s misadventures with the Tom were barely mentioned (he had already been paid): the record of claims lists his name, and Dobrée’s, but had no information about when he was captured, or how much was lost.308

The spoliation claims outlived everyone who experienced losses in the Quasi War. They were taken up by the children of men who had lost money or ships in the Quasi War, but as decades passed those children started to die as well. One lawyer who made his career handling French spoliation claims, James Causten, kept a carefully

maintained ledger of current claimants. At some point, most of the names of original claimants in his ledger had a notation next to it in browning ink: the word “heir.” Though it would have been unlikely for any adult who had lost property in the 1790s to survive until the 1890s, not every entry has a note that the claim had been passed on to an heir. This could be because Causten changed his system, some of the claimants had no heirs, or it could have something to do with the fact that even Causten himself died before his clients got their restitution.

In some ways, the list of who received payment as compensation for Quasi War seizures had a lot in common with the eighteenth-century lists of people who had lost property to French seizures during the Quasi War. The new list included basically the same ships, and even listed the long-dead captains of the captured vessels. Many of the surnames remained unchanged, even over a century later, as the claims were handed down through families, like an heirloom or an albatross, depending on how one looked at them. But the passage of time can be seen in some of the claimants whose surnames often had changed: the women. In the congressional record of the 1902 payout of French spoliation claims, at least 33 of the people who acted as executor or administrator of the estates receiving funds were female descendants of the original male claimants (or widows of male descendants). Fredricka Kerr administered part of the payment for one of the ships, the Lady Walterdorf, discussed in an earlier chapter.\(^{309}\) This list is the first place where women entered the official record of the Quasi War en masse.

\(^{309}\) “An Act for the allowance of certain claims for stores and supplies reported by the court of claims,” Fifty-Seventh Congress, Session 1, (1902), p. 218.
This is not to say that women were not always a part of the story of the Quasi War. Much of the conflict was confined to spaces where women could have only a limited role, such as courtrooms, political offices, naval vessels, and merchant ships.\textsuperscript{310} As such, the many women who were certainly part of this story can be hard to find, especially in official documents. One can infer their presence in many places. Several mariners documented their stays at different hotels or residences (John Bailey in particular made detailed entries about the food he ate), and it is unlikely that none of these establishments had any female proprietors or staff. Bailey wrote about visiting the family homes of various lawyers and officials, where he would have come into contact with female household staff and family members. The women in shipping families were not far removed from the business: Abigail Saltonstall heard about French seizures from those in her social circle who had experienced them, and one of the captains that John Bailey corresponded with already knew his wife Mary, even though the two men had never met. Women were part of the daily life of the port cities that these men visited as well as their daily lives at home, but all of the accounts examined for this thesis mentioned only the men the mariners came into contact with.

Examining family papers as part of this project reveals the way that women were important to the Quasi War, even if the more official records do not. William Handy is a valuable resource for views about France, the maritime trade, and the Quasi War itself. He would not have been half as valuable if he had not had such a real desire to confide in 

\textsuperscript{310} There were women who sailed during this period, as well as women who exerted influence over politics, but they were either the exceptions, or themselves used a degree of soft power to the point where their presence would not have changed the perceived male character of the sphere they moved in.
his fiancé. Abigail Saltonstall was clearly someone who Handy respected: his letters included many political opinions but very little condescension. He also trusted her a great deal, since his letters have passages about his fears and dreams that could have been embarrassing if she decided to share them. It is fairly easy to build a portrait of her through his writing, but in the archival collection as it exists today, she has relatively little in the way of a voice of her own. The imbalance of his letters compared to hers is probably explained by his profession: she sent letters to him on while he was traveling on a merchant ship, while he sent letters to her at their fixed address, where it would be easier to keep track of them over long periods of time. Thus, the modern reader often sees Saltonstall through Handy’s eyes. Though the image is rosy, it is not reality.

For any of the mariners or merchants involved in the Quasi War, any negative repercussions were not felt by them alone. Saltonstall seems to have feared for her fiancé’s safety almost as much as Handy did himself. The perpetual anticipation of an attack would have been a worry not only for anyone onboard a ship, but also for anyone who did not want to lose someone onboard a ship. Mary Bailey actually did lose her husband for the years that he spent in France. Indeed, since she heard nothing of him for six months after his ship was captured, she thought she had lost him entirely. Mary Bailey’s letter also provides hints as to why her husband might have stayed so long in France. To be sure, there was a kind of sunk cost fallacy associated with his dealings with the French, that he had spent so long trying to resolve the affair of the Tom that he might as well see it through. Nevertheless, some of the investors in the Tom told him to leave, that he was not needed, and still he stayed. The letters from his wife and brother in law let him know that whenever he returned to Massachusetts he would be entering a
family situation that was, to say the least, emotionally fraught, a very plausible motivation for postponing his return. Without hearing from her, a modern reader would have only his perspective: that he stayed because it was his duty. Perhaps professional duty was what pulled him to stay in France, but his dereliction of personal duty may have pushed him not to return to the US.

However useful these perspectives are to either elicit or explain the actions of men, these women were more than simply motivations for their husbands, brothers, and sons. Just as the shipboard world of John Bailey, Andrew Dorr, or William Handy, was, for the most part, a male space in this period, the glimpses that we get through letters from the women in their lives are scenes from a world that often existed entirely without the men who received the letters. All of these men were away for long periods of time, and their families’ lives did not stop while they were gone. The letters from Saltonstall, Mary Bailey, and the Dorr sisters show that these women had thriving social and intellectual lives that are less documented than their husbands and brothers’ but still visible in the historic record. At least for the Dorrs, the longer the claims remained unpaid, the more this level of visibility changed.

The first family custodians of the Dorr claims appear to have been Andrew Dorr and his son, though many of the papers regarding the claims in the nineteenth century were written by lawyers. In the earliest years of the collection, the family correspondence is dominated by the male members of the family. There are a few letters from Sally or Lucretia, but everything regarding their mother or their older sisters,
Elizabeth and Abigail, is confined to secondary references, and not very specific ones.\textsuperscript{311} At the end of the nineteenth century, the situation is reversed. In the last few folders, most of the male writing originated with the family’s lawyers. It seems that at this point, the Dorr women became the ones saving the family papers, and in doing so, opened a window onto the types of interactions that had been confined to the background in previous years. Dorr descendent Nellie Cotting’s brothers Eugene and Charlie had apparently been unhappy that their aunt Charlotte had sent an upscale carriage for their sister and not for them, but Charlotte wrote to her niece to tell her that it was important she ride in a carriage, as she was a \textit{“young lady”} – emphasis hers.\textsuperscript{312} Ellinor Dorr wrote to her Aunt Lucretia that she loved her present on its own merits, but that she loved it even more because it came from a favored aunt.\textsuperscript{313} Emily Dorr’s well-worn note book of recipes has its own folder, preserving, among others, her recipe for “Pork Cake” that includes the direction to beat the batter “with spoon about as stiff as you can stir.”\textsuperscript{314} These later folders are also where Helen and Eugene Dorr Morse’s doughnut agreement is to be found. In some ways, these papers have been almost accidentally preserved, slices of personal life found in the midst of a collection that is focused on the Dorr family’s spoliation claims, not the Dorr family itself.

\textsuperscript{311} The first time I read about Elizabeth, I assumed she was one of the Dorr family ships, not a person, given the pronoun choice and lack of detail.
\textsuperscript{312} Charlotte to Elinor Cotting, Undated, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
\textsuperscript{313} Elinor Dorr to Lucretia Dorr, Undated, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
\textsuperscript{314} Pork Cake Recipe, Undated, Dorr Family French Spoliation Claims Papers II, Massachusetts Historical Society.
One of the biggest themes in the family documents in the later years of the Dorr Family Spoliation Claims Papers is genealogy. The folders are filled with small scraps of paper and cardboard on which an unsigned writer marked down the birth and death dates of different Dorr descendants. Helen Dorr Morse, she of the doughnut deal, wrote to a stranger with the same surname to see if they might both be descendants of Andrew Dorr, and mentioned that she was already making a list 400 names long of potential family members. The finding aid for the collection suggests that this exercise in genealogy was meant to figure out who would get a share of the Quasi War payout. If she had gotten to a place where she had found 400 potential Dorrs, it is likely that Morse was taking the lead on the claims at this point, and had to look back in order to move forward. The role of memory keeper is one filled by women in both of the family collections discussed in this thesis (Handy’s and the Dorrs’, Bailey’s letters were saved in a collection of his employer’s papers). That could be a role that underrepresented their involvement, as when Saltonstall saved her husband’s letters but could not save her own, or one that highlighted that involvement, like Helen Dorr Morse. Even the preservation of this and other collections of Quasi War papers was an act of remembering, though the Dorrs are one of the few to leave a collection solely focused on spoliation claims – oftentimes material on the claims is found in more generalized collections of family papers.315

315 During the court proceedings surrounding the French spoliation claims, some legislators claimed that it would be disingenuous to make payouts to the families of those who had lost property, since the claims had been passed on to insurance companies, and no actual families would benefit. Though this was true in some cases, many families were still in control of their ancestors’ claims. When he rejected this argument in the case of the Industry, Chief Justice Richardson wrote that “we find the claims to have been retained… in the numerous families of the original losers, with uncommon tenacity.” These families were one of the major forces behind the continued advocacy for the claims, even if some of them did it through lawyers – see George A. King, “The French
However, just because the Dorr family kept the Quasi War papers, it does not follow that the Quasi War always kept the same place in the family’s consciousness.

As much as the final stages of the Quasi War were about remembering, for the conflict to truly end, it had to be forgotten. The cards and letters in the later years of the Dorr family papers illustrate not just the inner life of certain family members and their efforts to locate other descendants, but also how the family itself had changed. The early years of the collection have a much clearer focus on the Quasi War, even in family letters, but as the years went by, the matter grew more distant and less urgent. The definition of what could be included in a collection that represented a portrait of the family and its claims expanded to include Emily Dorr’s blueberry pudding and a program for the centennial celebration of the Boston Tea Party. The central issue of the Quasi War: the illegal seizures of US property by French privateers, had been kept alive through the money, focus, and determination of claimants to remember the wrong that had been done their family and achieve what they believed to be justice. Only by letting go of that determination and accepting a resolution, whether or not that resolution involved being paid, could the matter finally be laid to rest. The Quasi War was never declared, so it makes sense that its ending would not be a hard stop, but a slow fade into darkness, as the only people who still cared about it ate doughnuts, baked cakes, and learned to forget.

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